ENVIRONMENTAL PROTECTION (ENERGY END-USE EFFICIENCY) ACT 2009

Principal Act

Act. No. 2009-28 *Commencement (LN. 2010/085)* 29.4.2010
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Amending enactments	Relevant current provisions	Commencement date
LN. 2014/090	ss. 1, 2, 3, 4, 5, 6-13, 13B-13I, 14, Schs. 1, 2, 3, 4, 5, 6, 7-17	5.6.2014
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2018/101	ss. 7(12)-(14), 8(6)-(8), 11(8)-(10)	3.5.2018

Transposing:
Directive 93/76/EEC
Directive 2012/27/EU

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AN ACT TO TRANSPOSE INTO THE LAW OF GIBRALTAR Directive 2012/27/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 25 OCTOBER 2012 ON ENERGY EFFICIENCY, AMENDING DIRECTIVES 2009/125/EC AND 2010/30/EU AND REPEALING DIRECTIVES 2004/8/EC AND 2006/32/EC AS AMENDED.

PART I
PRELIMINARY AND INTERPRETATION

Title and commencement.

1. This Act may be cited as the Environmental Protection (Energy Efficiency) Act 2009 and comes into operation on such day as the Minister may provide by notice in the Gazette.

Subject matter and scope of the Act.

2.(1) This Act implements the objectives of the Directive in establishing a common framework of measures for the promotion of energy efficiency within the European Union to–

(a) ensure the achievement of the European Union's 2020 20% headline target on energy efficiency; and

(b) pave the way for further energy efficiency improvements beyond that date.

(2) This Act provides for the establishment of indicative energy efficiency targets for 2020.

(3) The requirements laid down in this Act are minimum requirements and shall not prevent the competent authority from maintaining or introducing more stringent measures if such measures are compatible with European Union law.

(4) The Minister must ensure that any legislative measure that is adopted pursuant to subsection (3) is notified to the European Commission.

Interpretation.

3.(1) In this Act, unless the context otherwise requires–

"aggregator" means a demand service provider that combines multiple short-duration consumer loads for sale or auction in organised energy markets;

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"competent authority" has the meaning given to it in section 18;

"cogeneration" means the simultaneous generation in one process of thermal energy and electrical or mechanical energy;

"cogeneration unit" means a unit that is able to operate in cogeneration mode;

"Directive" means the Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC as the same may be amended from time to time;

"distribution system operator" means a natural or legal person responsible for operating, ensuring the maintenance of and, if necessary, developing the distribution system of electricity or natural gas in a given area and, where applicable, its interconnections with other systems, and for ensuring the long term ability of the system to meet reasonable demands for the distribution of electricity or natural gas;

"economically justifiable demand" means demand that does not exceed the needs for heating or cooling and which would otherwise be satisfied at market conditions by energy generation processes other than cogeneration;

"efficient district heating and cooling" means a district heating or cooling system using at least 50 % renewable energy, 50 % waste heat, 75 % cogenerated heat or 50 % of a combination of such energy and heat;

"efficient heating and cooling" means a heating and cooling option that, compared to a baseline scenario reflecting a business-as-usual situation, measurably reduces the input of primary energy needed to supply one unit of delivered energy within a relevant system boundary in a cost-effective way, as assessed in the cost-benefit analysis referred to in this Directive, taking into account the energy required for extraction, conversion, transport and distribution;

"efficient individual heating and cooling" means an individual heating and cooling supply option that, compared to efficient district heating and cooling, measurably reduces the input of non-renewable primary energy needed to supply one unit of delivered energy within a relevant system boundary or requires the same

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input of non-renewable primary energy but at a lower cost, taking into account the energy required for extraction, conversion, transport and distribution;

"electricity from cogeneration" means electricity generated in a process linked to the production of useful heat and calculated in accordance with the methodology laid down in Schedule 2;

"energy" means all forms of energy products, combustible fuels, heat, renewable energy, electricity, or any other form of energy, as defined in Article 2(d) of Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics;

"energy audit" means a systematic procedure with the purpose of obtaining adequate knowledge of the existing energy consumption profile of a building or group of buildings, an industrial or commercial operation or installation or a private or public service, identifying and quantifying cost-effective energy savings opportunities, and reporting the findings;

"energy distributor" means a natural or legal person, including a distribution system operator, responsible for transporting energy with a view to its delivery to final customers or to distribution stations that sell energy to final customers;

"energy efficiency" means the ratio of output of performance, service, goods or energy, to input of energy;

"energy efficiency improvement" means an increase in energy efficiency as a result of technological, behavioural and/or economic changes;

"energy management system" means a set of interrelated or interacting elements of a plan which sets an energy efficiency objective and a strategy to achieve that objective;

"entrusted party" means a legal entity with delegated power from the Government or other public body to develop, manage or operate a financing scheme on behalf of the Government or other public body;

"energy performance contracting" means a contractual arrangement between the beneficiary and the provider of an energy efficiency improvement measure, verified and monitored during the whole term of the contract, where investments (work, supply or service) in that measure are paid for in relation to a contractually agreed level

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of energy efficiency improvement or other agreed energy performance criterion, such as financial savings;

"energy savings" means an amount of saved energy determined by measuring or estimating or both consumption before and after implementation of an energy efficiency improvement measure, whilst ensuring normalisation for external conditions that affect energy consumption;

"energy service" means the physical benefit, utility or good derived from a combination of energy with energy-efficient technology or with action, which may include the operations, maintenance and control necessary to deliver the service, which is delivered on the basis of a contract and in normal circumstances has proven to result in verifiable and measurable or estimable energy efficiency improvement or primary energy savings;

"energy service provider" means a natural or legal person who delivers energy services or other energy efficiency improvement measures in a final customer's facility or premises;

"European standard" means a standard adopted by the European Committee for Standardisation, the European Committee for Electrotechnical Standardisation or the European Telecommunications Standards Institute and made available for public use;

"final customer" means a natural or legal person who purchases energy for own end use;

"final energy consumption" means all energy supplied to industry, transport, households, services and agriculture but excludes deliveries to the energy transformation sector and the energy industries themselves;

"high-efficiency cogeneration" means cogeneration meeting the criteria laid down in Schedule 5;

"implementing public authority" means a body governed by public law which is responsible for the carrying out or monitoring of energy or carbon taxation, financial schemes and instruments, fiscal incentives, standards and norms, energy labelling schemes, training or education;

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"individual action" means an action that leads to verifiable, and measurable or estimable, energy efficiency improvements and is undertaken as a result of a policy measure;

"international standard" means a standard adopted by the International Standardisation Organisation and made available to the public;

"micro-cogeneration unit" means a cogeneration unit with a maximum capacity below 50 kW_e;

"Minister" means the Minister with responsibility for the environment;

"obligated party" means an energy distributor or retail energy sales company that is bound by the energy efficiency obligation schemes of Gibraltar as referred to in section 9;

"overall efficiency" means the annual sum of electricity and mechanical energy production and useful heat output divided by the fuel input used for heat produced in a cogeneration process and gross electricity and mechanical energy production;

"participating party" means an enterprise or public body that has committed itself to reaching certain objectives under a voluntary agreement, or is covered by a regulatory policy instrument;

"plot ratio" means the ratio of the building floor area to the land area in Gibraltar;

"policy measure" means a regulatory, financial, fiscal, voluntary or information provision instrument formally established and implemented in Gibraltar to create a supportive framework, requirement or incentive for market actors to provide and purchase energy services and to undertake other energy efficiency improvement measures;

"power-to-heat ratio" means the ratio of electricity from cogeneration to useful heat when operating in full cogeneration mode using operational data of the specific unit;

"primary energy consumption" means gross inland consumption, excluding non-energy uses;

"public bodies" means "contracting authorities" within the meaning of regulation 3 of the Procurement (Public Contracts) Regulations 2012;

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"retail energy sales company" means a natural or legal person who sells energy to final customers;

"small and medium-sized enterprises" or "SMEs" means enterprises as defined in Title I of the Annex to Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, the category of micro, small and medium-sized enterprises is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding 50 million Euros, or an annual balance sheet total not exceeding 43 million Euros or both;

"small-scale cogeneration unit" means a cogeneration unit with installed capacity below 1 MW_e;

"smart metering system" or "intelligent metering system" means an electronic system that can measure energy consumption, providing more information than a conventional meter, and can transmit and receive data using a form of electronic communication;

"substantial refurbishment" means a refurbishment whose cost exceeds 50 % of the investment cost for a new comparable unit;

"total useful floor area" means the floor area of a building or part of a building, where energy is used to condition the indoor climate;

"transmission system operator" has the meaning given to it in Directive 2009/72/EC and Directive 2009/73/EC respectively;

"useful heat" means heat produced in a cogeneration process to satisfy economically justifiable demand for heating or cooling.

(2) A word or expression not defined in this Act, if used in the Directive shall have the meaning given to it in the Directive.

PART II
ENERGY SAVINGS AND EFFICIENCY TARGETS

4. *Repealed*.

Energy efficiency targets.

5.(1) The competent authority must set an indicative energy efficiency target for Gibraltar, based on either primary or final energy consumption, primary or final energy savings, or energy intensity.

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(2) Where the competent authority sets an indicative energy efficiency target for Gibraltar under subsection (1), the competent authority shall ensure that the European Commission is notified in accordance with section 14(1) and (2) and Part I of Schedule 17.

(3) In notifying the targets under subsection (2), the competent authority must also express those targets in terms of an absolute level of primary energy consumption and final energy consumption in 2020 and shall explain how, and on the basis of which data, this has been calculated.

(4) When setting those targets, the competent authority must take into account–

(a) that the European Union's 2020 energy consumption has to be no more than 1,474 Mtoe of primary energy or no more than 1,078 Mtoe of final energy;

(b) the measures provided for in this Act;

(c) the measures adopted to reach the energy saving targets for Gibraltar adopted pursuant to section 4; and

(d) other measures to promote energy efficiency within Gibraltar and at European Union level.

(5) When setting those targets, the competent authority must also take into account the circumstances affecting primary energy consumption, such as–

(a) remaining cost-effective energy-saving potential;

(b) GDP evolution and forecast;

(c) changes of energy imports and exports;

(d) development of all sources of renewable energies, nuclear energy, carbon capture and storage; and

(e) early action.

PART III
EFFICIENCY IN ENERGY USE

Building renovation.

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6.(1) The competent authority must establish a long-term strategy for mobilising investment in the renovation of the stock of residential and commercial buildings in Gibraltar, both public and private.

(2) The strategy established under subsection (1) must encompass–

(a) an overview of the building stock in Gibraltar based, as appropriate, on statistical sampling;

(b) identification of cost-effective approaches to renovations relevant to the building type and climatic zone;

(c) policies and measures to stimulate cost-effective deep renovations of buildings, including staged deep renovations;

(d) a forward-looking perspective to guide investment decisions of individuals, the construction industry and financial institutions; and

(e) an evidence-based estimate of expected energy savings and wider benefits.

(3) The strategy under subsection (1) shall–

(a) be published as soon as is reasonably practicable;

(b) updated every 3 years from 30 April 2014;

(c) be submitted for transmission to the European Commission as part of the Energy Efficiency Action Plans for Gibraltar.

Exemplary role of public bodies' buildings.

7.(1) Without prejudice to regulation 8 of the Environment (Energy Performance of Buildings) Regulations 2012, the competent authority must ensure that, as from 1 January 2014, 3% of the total floor area of heated or cooled buildings or both, owned and occupied by the Government is renovated each year to meet at least the minimum energy performance requirements that it has set in application of regulation 5 of the Environment (Energy Performance of Buildings) Regulations 2012.

(2) The 3% rate referred to in subsection (1) shall be calculated on the total floor area of buildings with a total useful floor area over 500m^2 owned and occupied by the Government that, on 1 January of each year, do not meet the minimum energy performance requirements set in application of

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regulation 5 of the Environment (Energy Performance of Buildings) Regulations 2012.

(3) The threshold referred to in subsection (2) shall be lowered to 250m^2 as of 9 July 2015.

(4) Where the competent authority requires that the obligation to renovate each year 3% of the total floor area extends to floor area owned and occupied by an administrative department(which may be regarded as being below the level of central government), the 3% rate shall be calculated on the total floor area of buildings with a total useful floor area over 500m^2 and, as of 9 July 2015, over 250m^2 owned and occupied by the Government and by these administrative departments that, on 1 January of each year, do not meet the minimum energy performance requirements set in application of regulation 5 of the Environment (Energy Performance of Buildings) Regulations 2012.

(5) When implementing measures for the comprehensive renovation of the Government buildings in accordance with subsection (1), the competent authority may choose to consider the building as a whole, including the building envelope, equipment, operation and maintenance.

(6) The competent authority must require that Government buildings with the poorest energy performance be a priority for energy efficiency measures, where cost-effective and technically feasible.

(7) The competent authority may decide not to set or apply the requirements referred to in subsections (1) to (6) to the following categories of buildings–

(a) buildings officially protected as part of a designated environment, or because of their special architectural or historical merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance;

(b) buildings owned by the armed forces and serving defence purposes, apart from single living quarters or office buildings for the armed forces and other staff employed by Ministry of Defence; and

(c) buildings used as places of worship and for religious activities.

(8) If more than 3% of the total floor area of Government buildings is renovated in a given year, the competent authority it may count the excess

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towards the annual renovation rate of any of the 3 previous or following years.

(9) The competent authority may count towards the annual renovation rate of Government buildings new buildings occupied and owned as replacements for specific Government buildings demolished in any of the 2 previous years, or buildings that have been sold, demolished or taken out of use in any of the 2 previous years due to more intensive use of other buildings.

(10) For the purposes of subsections (1) to (6), and as soon as is reasonably practicable, the competent authority shall establish and make publicly available an inventory of heated or cooled or both, Government buildings with a total useful floor area over 500m^2 and, as of 9 July 2015, over 250m^2, excluding buildings exempted on the basis of subsection (7).

(11) The inventory referred to in subsection (10) must contain the following data–

(a) the floor area in m^2; and

(b) the energy performance of each building or relevant energy data.

(12) *Deleted*.

(13) *Deleted*.

(14) *Deleted*.

(15) The competent authority must encourage public bodies and social housing bodies governed by public law, with due regard for their respective competences and administrative set-up, to–

(a) adopt an energy efficiency plan, freestanding or as part of a broader climate or environmental plan, containing specific energy saving and efficiency objectives and actions, with a view to following the exemplary role of Government buildings laid down in subsection (1) to (6), (10), (11), (12), (13) and (14);

(b) put in place an energy management system, including energy audits, as part of the implementation of their plan;

(c) use, where appropriate, energy service companies, and energy performance contracting to finance renovations and implement

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plans to maintain or improve energy efficiency in the long term.

Purchasing by public bodies.

8.(1) The competent authority must ensure that the Government purchases only products, services and buildings with high energy-efficiency performance, insofar as that is consistent with cost-effectiveness, economical feasibility, wider sustainability, technical suitability, as well as sufficient competition, as referred to in Schedule 6.

(2) The obligation set out in subsection (1) shall apply to contracts for the purchase of products, services and buildings by public bodies in so far as such contracts have a value equal to or greater than the thresholds laid down in regulation 8 of the Procurement (Public Contracts) Regulations 2012.

(3) The obligation referred to in subsections (1) and (2)–

(a) shall apply to the contracts of the armed forces only to the extent that its application does not cause any conflict with the nature and primary aim of the activities of the armed forces;

(b) shall not apply to contracts for the supply of military equipment as defined by the Procurement (Defence and Security Public Contracts) Regulations 2012;

(c) shall only apply if the Government is a party to the contract.

(4) The competent authority must encourage public bodies–

(a) with due regard to their respective competences and administrative set-up, to follow the exemplary role of the Government to purchase only products, services and buildings with high energy-efficiency performance; and

(b) when tendering service contracts with significant energy content, to assess the possibility of concluding long- term energy performance contracts that provide long-term energy savings.

(5) Without prejudice to subsections (1) and (2), when purchasing a product package covered as a whole by a delegated act adopted under the Environment (Energy Efficiency) Regulations 2013, the competent authority may require that the aggregate energy efficiency shall take priority over the energy efficiency of individual products within that package, by purchasing

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the product package that complies with the criterion of belonging to the highest energy efficiency class.

(6) The competent authority may issue guidelines for compliance with the provisions of this section, particularly with regard to the interpretation of cost-effectiveness, economical feasibility, wider sustainability, technical suitability, as well as sufficient competition in the context of subsection (1), and where such guidelines are issued they shall be binding on every person who fall within its terms.

(7) Guidelines, including any revisions, issued under subsection (6) must be published in the Gazette.

(8) The powers conferred under section 18 may be exercised by the competent authority to enforce or, as the case may be, remedy a breach of guidelines issued under subsection (6).

Energy efficiency obligation schemes.

9.(1) The competent authority must set up an energy efficiency obligation scheme and that scheme must ensure that energy distributors or retail energy sales companies operating in Gibraltar that are designated as obligated parties under subsection (7) or all of them achieve a cumulative end-use energy savings target by 31 December 2020, without prejudice to subsection (4).

(2) The target under subsection (1) shall be at least equivalent to achieving new savings each year from 1 January 2014 to 31 December 2020 of 1.5% of the annual energy sales to final customers of all energy distributors or all retail energy sales companies by volume, averaged over the most recent 3 year period prior to 1 January 2013 and the sales of energy, by volume, used in transport may be partially or fully excluded from this calculation.

(3) The competent authority must decide how the calculated quantity of new savings referred to in subsection (2) is to be phased over the period.

(4) Subject to subsection (5), the competent authority may–

(a) carry out the calculation required by subsection (2) using values of 1% in 2014 and 2015; 1.25% in 2016 and 2017; and 1.5% in 2018, 2019 and 2020;

(b) exclude from the calculation all or part of the sales, by volume, of energy used in industrial activities listed in Schedule 1 of the Greenhouse Gas Emissions Trading Scheme Regulations 2012;

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(c) allow energy savings achieved in the energy transformation, distribution and transmission sectors, including efficient district heating and cooling infrastructure, as a result of the implementation of the requirements set out in section 13B(6), paragraph (b) of section 13B(8) and section 13C(1) to (13), (16) and (17) to be counted towards the amount of energy savings required under subsections (1) to (3); and

(d) count energy savings resulting from individual actions newly implemented since 31 December 2008 that continue to have an impact in 2020 and that can be measured and verified, towards the amount of energy savings referred to in subsections (1) to (3).

(5) The application of subsection (4) shall not lead to a reduction of more than 25% of the amount of energy savings referred to in subsections (1) to (3).

(6) If the competent authority applies subsection (4) it shall ensure that the European Commission is notified by 5 June 2014, including the elements listed under subsection (4) to be applied and a calculation showing their impact on the amount of energy savings referred to subsections (1) to (3).

(7) Without prejudice to the calculation of energy savings for the target in accordance with subsection (2), the competent authority must, for the purposes of subsection (1), designate, on the basis of objective and non-discriminatory criteria, obligated parties amongst energy distributors or retail energy sales companies operating in Gibraltar or all of them and may include transport fuel distributors or transport fuel retailers operating in Gibraltar.

(8) The amount of energy savings to fulfil the obligation shall be achieved by the obligated parties among final customers, designated, as appropriate, by the competent authority, independently of the calculation made pursuant to subsections (1) to (3) or, if the competent authority so decides, through certified savings stemming from other parties as described in paragraph (b) of subsection (11).

(9) The competent authority must express the amount of energy savings required of each obligated party in terms of either final or primary energy consumption and the method chosen for expressing the required amount of energy savings shall also be used for calculating the savings claimed by obligated parties and the conversion factors set out Schedule 7 shall apply.

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(10) The competent authority must ensure that the savings stemming from subsections (1) to (4), (13) to (15) of this section and section 13H(2)(c) are calculated in accordance with paragraphs 1 and 2 of Schedule 8 and shall–

(a) put in place measurement, control and verification systems under which at least a statistically significant proportion and representative sample of the energy efficiency improvement measures put in place by the obligated parties is verified; and

(b) conduct that measurement, control and verification independently of the obligated parties.

(11) Within the energy efficiency obligation scheme, the competent authority may–

(a) include requirements with a social aim in the saving obligations imposed, including by requiring a share of energy efficiency measures to be implemented as a priority in households affected by energy poverty or in social housing;

(b) permit obligated parties to count towards their obligation certified energy savings achieved by energy service providers or other third parties, including when obligated parties promote measures through other State-approved bodies or through public authorities that may or may not involve formal partnerships and may be in combination with other sources of finance;

(c) allow obligated parties to count savings obtained in a given year as if they had instead been obtained in any of the 4 previous or 3 following years.

(12) Where the competent authority so permits pursuant to subsection (11)(b), it must ensure that an approval process is in place which is clear, transparent and open to all market actors, and which aims at minimising the costs of certification.

(13) Once a year, the competent authority must publish the energy savings achieved by each obligated party, or each sub-category of obligated party, and in total under the scheme.

(14) The competent authority must ensure that obligated parties provide on request–

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(a) aggregated statistical information on their final customers (identifying significant changes to previously submitted information); and

(b) current information on final customers' consumption, including, where applicable, load profiles, customer segmentation and geographical location of customers, while preserving the integrity and confidentiality of private or commercially sensitive information in compliance with applicable European Union law.

(15) The request referred to in subsection (14) shall be made not more than once a year.

(16) As an alternative to setting up an energy efficiency obligation scheme under subsections (1) to (3), the competent authority may opt to take other policy measures to achieve energy savings among final customers, provided those policy measures meet the criteria set out in subsections (21) and (22).

(17) The annual amount of new energy savings achieved through the approach in accordance with subsection (16) shall be equivalent to the amount of new energy savings required by subsections (1) to (5) and if that equivalence is maintained, the competent authority may combine obligation schemes with alternative policy measures, including energy efficiency programmes.

(18) The policy measures referred to in subsection (16) may include, but are not restricted to, the following policy measures or combinations thereof–

(a) energy or CO_2 taxes that have the effect of reducing end-use energy consumption;

(b) financing schemes and instruments or fiscal incentives that lead to the application of energy-efficient technology or techniques and have the effect of reducing end-use energy consumption;

(c) regulations or voluntary agreements that lead to the application of energy-efficient technology or techniques and have the effect of reducing end-use energy consumption;

(d) standards and norms that aim at improving the energy efficiency of products and services, including buildings and vehicles, except where these are mandatory and applicable in Gibraltar under European Union law;

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(e) energy labelling schemes, with the exception of those that are mandatory and applicable in Gibraltar under European Union law;

(f) training and education, including energy advisory programmes, that lead to the application of energy-efficient technology or techniques and have the effect of reducing end-use energy consumption.

(19) The competent authority must ensure that the European Commission is notified, as soon as is reasonably practicable, of the policy measures that it plans to adopt for the purposes of the subsections (16) and (17) and section 13H(2)(c), following the framework provided in paragraph 4 of Schedule 8, and showing how they would achieve the required amount of savings.

(20) In the case of the policy measures referred to in subsection (18) and section 13H(2)(c), this notification shall demonstrate how the criteria in subsection (20) are met and in the case of policy measures other than those referred to in subsection (18) or section 13H(2)(c), the competent authority must explain how an equivalent level of savings, monitoring and verification is achieved.

(21) Without prejudice to subsection (22), the criteria for the policy measures taken pursuant to subsection (18) and section 13H(2)(c) shall be as follows–

(a) the policy measures provide for at least two intermediate periods by 31 December 2020 and lead to the achievement of the level of ambition set out in subsections (1) to (3);

(b) the responsibility of each entrusted party, participating party or implementing public authority, whichever is relevant, is defined;

(c) the energy savings that are to be achieved are determined in a transparent manner;

(d) the amount of energy savings required or to be achieved by the policy measure are expressed in either final or primary energy consumption, using the conversion factors set out in Schedule 7;

(e) energy savings are calculated using the methods and principles provided in paragraphs 1 and 2 of Schedule 8;

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(f) energy savings are calculated using the methods and principles provided in paragraph 3 of Schedule 8;

(g) an annual report of the energy savings achieved is provided by participating parties unless not feasible and made publicly available;

(h) monitoring of the results is ensured and appropriate measures are envisaged if the progress is not satisfactory;

(i) a control system is put in place that also includes independent verification of a statistically significant proportion of the energy efficiency improvement measures; and

(j) data on the annual trend of energy savings are published annually.

(22) The competent authority shall ensure that–

(a) the taxes referred to in subsection (18) (a) comply with the criteria listed in paragraphs (a), (b), (c), (d), (f), (h) and (j) of subsection (21);

(b) the regulations and voluntary agreements referred to in subsection (18)(c) comply with the criteria listed in paragraphs (a), (b), (c), (d), (e), (g), (h), (i) and (j) of subsection (21);

(c) the other policy measures referred to in the subsection (18) and the Energy Efficiency Funds referred to in section13H(2)(c) comply with the criteria listed in paragraphs (a), (b), (c), (d), (e), (h), (i) and (j) of subsection (21); and

(d) when the impact of policy measures or individual actions overlaps, no double counting of energy savings is made.

Energy audits and energy management systems.

10.(1) The competent authority must promote the availability to all final customers of high quality energy audits which are cost-effective and–

(a) carried out in an independent manner by qualified, accredited or both qualified and accredited experts according to qualification criteria; or

(b) implemented and supervised by independent authorities.

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(2) The energy audits referred to in subsection (1) may be carried out by in-house experts or energy auditors if the competent authority has put in place a scheme to assure and check their quality, including, if appropriate, an annual random selection of at least a statistically significant percentage of all the energy audits they carry out.

(3) For the purpose of guaranteeing the high quality of the energy audits and energy management systems, the competent authority must establish transparent and non-discriminatory minimum criteria for energy audits based on Schedule 9.

(4) Energy audits referred to in subsection (3) shall not include clauses preventing the findings of the audit from being transferred to any qualified or accredited energy service provider, on condition that the customer does not object.

(5) The competent authority must develop programmes to encourage SMEs to undergo energy audits and the subsequent implementation of the recommendations from these audits.

(6) On the basis of transparent and non-discriminatory criteria and without prejudice to European Union State aid law, the competent authority may set up support schemes for SMEs, including if it has concluded voluntary agreements, to cover costs of an energy audit and of the implementation of highly cost-effective recommendations from the energy audits, if the proposed measures are implemented.

(7) The competent authority must bring to the attention of SMEs, including through their respective representative intermediary organisations, concrete examples of how energy management systems could help their businesses.

(8) The competent authority must–

(a) develop programmes to raise awareness among households about the benefits of such audits through appropriate advice services; and

(b) encourage training programmes for the qualification of energy auditors in order to facilitate sufficient availability of experts.

(9) The competent authority must ensure that enterprises that are not SMEs are subject to an energy audit carried out in an independent and cost-effective manner by qualified, accredited or both qualified and accredited experts or implemented and supervised by independent authorities by 5

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December 2015 and at least every 4 years from the date of the previous energy audit.

(10) Energy audits shall be considered as fulfilling the requirements of subsection (9) when they are carried out in an independent manner, on the basis of minimum criteria based on Schedule 9, and implemented under voluntary agreements concluded between organisations of stakeholders and an appointed body and supervised by the competent authority, or other bodies to which the competent authority has delegated the responsibility concerned, or by the European Commission.

(11) Access of market participants offering energy services shall be based on transparent and non-discriminatory criteria.

(12) Enterprises that are not SMEs and that are implementing an energy or environmental management system, certified by an independent body according to the relevant European or International Standards, shall be exempted from the requirements of subsection (9) if the competent authority ensures that the management system concerned includes an energy audit on the basis of the minimum criteria based on Schedule 9.

(13) Energy audits may stand alone or be part of a broader environmental audit and the competent authority may require that an assessment of the technical and economic feasibility of connection to an existing or planned district heating or cooling network shall be part of the energy audit.

(14) Without prejudice to European Union State aid law, the competent authority may implement incentive and support schemes for the implementation of recommendations from energy audits and similar measures.

Metering.

11.(1) The competent authority must ensure that, in so far as it is technically possible, financially reasonable and proportionate in relation to the potential energy savings, final customers for electricity, natural gas, district heating, district cooling and domestic hot water are provided with competitively priced individual meters that accurately reflect the final customer's actual energy consumption and that provide information on actual time of use.

(2) A competitively priced individual meter referred to in subsection (1) shall always be provided when–

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(a) an existing meter is replaced, unless this is technically impossible or not cost-effective in relation to the estimated potential savings in the long term; or

(b) a new connection is made in a new building or a building undergoes major renovations, as set out in the Environment (Energy Performance of Buildings) Regulations 2012.

(3) Where heating and cooling or hot water are supplied to a building from a district heating network or from a central source servicing multiple buildings, a heat or hot water meter shall be installed at the heating exchanger or point of delivery.

(4) In multi-apartment and multi-purpose buildings with a central heating or cooling source or supplied from a district heating network or from a central source serving multiple buildings, individual consumption meters shall also be installed by 31 December 2016 to measure the consumption of heat or cooling or hot water for each unit where technically feasible and cost-efficient.

(5) Where the use of individual meters is not technically feasible or not cost-efficient, to measure heating, individual heat cost allocators shall be used for measuring heat consumption at each radiator, unless it is shown by the competent authority that the installation of such heat cost allocators would not be cost-efficient and in those cases, alternative cost-efficient methods of heat consumption measurement may be considered.

(6) Where multi-apartment buildings are supplied from district heating or cooling, or where own common heating or cooling systems for such buildings are prevalent, the competent authority may introduce transparent rules on the allocation of the cost of thermal or hot water consumption in such buildings to ensure transparency and accuracy of accounting for individual consumption.

(7) Where appropriate, the rules referred to in subsection (6) shall include guidelines on the way to allocate costs for heat or hot water that is used or both as follows–

(a) hot water for domestic needs;

(b) heat radiated from the building installation and for the purpose of heating the common areas (where staircases and corridors are equipped with radiators); and

(c) for the purpose of heating apartments.

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(8) The competent authority may issue guidelines for compliance with the provisions of this section, particularly with regard to the interpretation of what is technically feasible and cost-efficient in the context of subsection (4), and where such guidelines are issued they shall be binding on every person who fall within its terms.

(9) Guidelines, including any subsequent revisions, issued under subsection (8) must be published in the Gazette.

(10) The powers conferred under section 18 may be exercised by the competent authority to enforce or, as the case may be, remedy a breach of guidelines issued under subsection (8).

Billing information.

12.(1) Where final customers do not have smart meters, the competent authority must ensure, by 31 December 2014, that billing information is accurate and based on actual consumption, in accordance with paragraph 1.1 of Schedule 10, for all the sectors covered by this Act, including energy distributors, distribution system operators and retail energy sales companies, where this is technically possible and economically justified.

(2) The obligation under subsection (1) may be fulfilled by a system of regular self-reading by the final customers whereby they communicate readings from their meter to the energy supplier and only when the final customer has not provided a meter reading for a given billing interval shall billing be based on estimated consumption or a flat rate.

(3) If smart meters are installed, they shall enable accurate billing information based on actual consumption and the competent authority must ensure that final customers have the possibility of easy access to complementary information on historical consumption allowing detailed self-checks.

(4) Complementary information on historical consumption referred to in subsection (3) shall include–

(a) cumulative data for at least the 3 previous years or the period since the start of the supply contract if this is shorter and the data shall correspond to the intervals for which frequent billing information has been produced; and

(b) detailed data according to the time of use for any day, week, month and year and these data shall be made available to the final customer via the internet or the meter interface for the

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period of at least the previous 24 months or the period since the start of the supply contract if this is shorter.

(5) Independently of whether smart meters have been installed or not, the competent authority–

(a) must require that, to the extent that information on the energy billing and historical consumption of final customers is available, it be made available, at the request of the final customer, to an energy service provider designated by the final customer;

(b) must ensure that final customers are offered the option of electronic billing information and bills and that they receive, on request, a clear and understandable explanation of how their bill was derived, especially where bills are not based on actual consumption;

(c) must ensure that appropriate information is made available with the bill to provide final customers with a comprehensive account of current energy costs, in accordance with Schedule 10;

(d) may require that, at the request of the final customer, the information contained in these bills shall not be considered to constitute a request for payment;

(e) must require that information and estimates for energy costs are provided to consumers on demand in a timely manner and in an easily understandable format enabling consumers to compare deals on a like-for-like basis.

(6) In a case falling under subsection (5)(d), the competent authority must ensure that suppliers of energy sources offer flexible arrangements for actual payments.

Cost of access to metering and billing information.

13.(1) The competent authority must ensure that final customers–

(a) receive all their bills and billing information for energy consumption free of charge; and

(b) have access to their consumption data in an appropriate way and free of charge.

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(2) Notwithstanding subsection (1), the distribution of costs of billing information for the individual consumption of heating and cooling in multi-apartment and multi-purpose buildings pursuant to section 11(3) to (8) shall be carried out on a non-profit basis.

(3) Costs resulting from the assignment of this task to a third party, such as a service provider or the local energy supplier, covering the measuring, allocation and accounting for actual individual consumption in such buildings, may be passed onto the final customers to the extent that such costs are reasonable.

Consumer information and empowering programme.

13A.(1) The competent authority must take appropriate measures to promote and facilitate an efficient use of energy by small energy customers, including domestic customers and these measures may be part of the Gibraltar strategy.

(2) For the purposes of subsection (1), these measures shall include one or more of the elements listed under paragraph (a) or (b)–

(a) a range of instruments and policies to promote behavioural change which may include–

(i) fiscal incentives;

(ii) access to finance, grants or subsidies;

(iii) information provision;

(iv) exemplary projects;

(v) workplace activities;

(b) ways and means to engage consumers and consumer organisations during the possible roll-out of smart meters through communication of–

(i) cost-effective and easy-to-achieve changes in energy use; and

(ii) information on energy efficiency measures.

PART IIIA
EFFICIENCY IN ENERGY SUPPLY

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Promotion of efficiency in heating and cooling.

13B.(1) By 31 December 2015, the competent authority must carry out and ensure that the European Commission is notified of a comprehensive assessment of the potential for the application of high-efficiency cogeneration and efficient district heating and cooling, containing the information set out in Schedule 11 if it has carried out an equivalent assessment, the competent authority shall ensure that it is notified to the European Commission.

(2) The comprehensive assessment referred to in subsection (1) shall–

(a) take full account of the analysis of the potentials for high-efficiency cogeneration carried out under the Electricity (High-Efficiency Cogeneration) Regulations 2010; and

(b) be updated and notified to the European Commission if the European Commission so requests pursuant to Article 14(1) of the Directive.

(3) The competent authority must adopt policies which encourage the due taking into account of–

(a) the potential of using efficient heating and cooling systems, in particular those using high-efficiency cogeneration; and

(b) the potential for developing local and regional heat markets.

(4) For the purpose of the assessment referred to in subsection (1), the competent authority must carry out a cost-benefit analysis across Gibraltar based on climate conditions, economic feasibility and technical suitability in accordance with Part 1 of Schedule 12.

(5) The cost-benefit analysis shall be capable of facilitating the identification of the most resource-and cost-efficient solutions to meeting heating and cooling needs and that cost-benefit analysis may be part of an environmental assessment under the Environment Act 2005.

(6) Where the assessment referred to in subsections (1) and (2) and the analysis referred to in subsections (4) and (5) identify a potential for the application of high-efficiency cogeneration, efficient district heating and cooling or both whose benefits exceed the costs, the competent authority must take adequate measures for efficient district heating and cooling infrastructure to be developed or to accommodate the development of high-efficiency cogeneration and the use of heating and cooling from waste heat

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and renewable energy sources in accordance with subsections (1), (2), (8) to (10) and (16).

(7) Where the assessment referred to in subsections (1) and (2) and the analysis referred to in subsections (4) and (5) do not identify a potential whose benefits exceed the costs, including the administrative costs of carrying out the cost-benefit analysis referred to in subsection (8), the competent authority may exempt installations from the requirements laid down in that subsection.

(8) The competent authority must ensure that a cost-benefit analysis in accordance with Part 2 of Schedule 12 is carried out when, after 5 June 2014–

(a) a new thermal electricity generation installation with a total thermal input exceeding 20 MW is planned, in order to assess the cost and benefits of providing for the operation of the installation as a high-efficiency cogeneration installation;

(b) an existing thermal electricity generation installation with a total thermal input exceeding 20 MW is substantially refurbished, in order to assess the cost and benefits of converting it to high-efficiency cogeneration;

(c) an industrial installation with a total thermal input exceeding 20 MW generating waste heat at a useful temperature level is planned or substantially refurbished, in order to assess the cost and benefits of utilising the waste heat to satisfy economically justified demand, including through cogeneration, and of the connection of that installation to a district heating and cooling network;

(d) a new district heating and cooling network is planned or in an existing district heating or cooling network a new energy production installation with a total thermal input exceeding 20 MW is planned or an existing such installation is to be substantially refurbished, in order to assess the cost and benefits of utilising the waste heat from nearby industrial installations.

(9) The fitting of equipment to capture carbon dioxide produced by a combustion installation with a view to its being geologically stored as provided for in the Environment (Geological Storage of Carbon Dioxide) Regulations 2011 shall not be considered as refurbishment for the purpose of paragraphs (b), (c) and (d) of subsection (8).

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(10) The competent authority may require the cost-benefit analysis referred to in paragraphs (c) and (d) of subsection (8) to be carried out in cooperation with the companies responsible for the operation of the district heating and cooling networks.

(11) The competent authority may exempt from subsections (8) to (10)–

(a) those peak load and back-up electricity generating installations which are planned to operate under 1500 operating hours per year as a rolling average over a period of five years, based on a verification procedure established by the competent authority ensuring that this exemption criterion is met;

(b) nuclear power installations;

(c) installations that need to be located close to a geological storage site approved under the Environment (Geological Storage of Carbon Dioxide) Regulations 2011 .

(12) The competent authority may also lay down thresholds, expressed in terms of the amount of available useful waste heat, the demand for heat or the distances between industrial installations and district heating networks, for exempting individual installations from the provisions of paragraphs (c) and (d) of subsection (8).

(13) The competent authority must ensure that exemptions adopted under subsections (11) and (12) are notified to the European Commission as soon as is reasonably practicable and any subsequent changes to them thereafter.

(14) The competent authority must adopt authorisation criteria or equivalent permit criteria, to–

(a) take into account the outcome of the comprehensive assessment referred to in subsections (1) and (2);

(b) ensure that the requirements of subsections (8) to (10) are fulfilled; and

(c) take into account the outcome of cost-benefit analysis referred to in subsections (8) to (10).

(15) The competent authority may exempt individual installations from being required, by the authorisation and permit criteria referred to in subsection (14), to implement options whose benefits exceed their costs, if there are imperative reasons of law, ownership or finance for so doing and in these cases the competent authority shall ensure that a reasoned

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notification of its decision is submitted to the European Commission within 3 months of the date of taking it.

(16) Subsection (8) to (15) shall apply to installations covered by the Pollution Prevention and Control Regulations 2013 without prejudice to the requirements of that Directive.

(17) On the basis of the harmonised efficiency reference values referred to in paragraph (f) of Schedule 5, the competent authority must ensure that the origin of electricity produced from high-efficiency cogeneration can be guaranteed according to objective, transparent and non-discriminatory criteria laid down by the competent authority.

(18) The competent authority must ensure that the guarantee of origin complies with the requirements and contains at least the information specified in Schedule 13.

(19) The competent authority must mutually recognise the guarantees of origin with other member states, exclusively as proof of the information referred to in subsection (18) and any refusal to recognise a guarantee of origin as such proof, in particular for reasons relating to the prevention of fraud, must be based on objective, transparent and non-discriminatory criteria.

(20) The competent authority must ensure that the European Commission is notified of such refusal and its justification.

(21) Where the European Commission adopts a decision pursuant to Article 14(10) of the Directive the competent authority shall recognise the guarantee of origin in respect of which the European Commission decision relates.

(22) The competent authority must ensure that any available support for cogeneration is subject to the electricity produced originating from high-efficiency cogeneration and the waste heat being effectively used to achieve primary energy savings and public support to cogeneration and district heating generation and networks shall be subject to State aid rules, where applicable.

Energy transformation, transmission and distribution.

13C.(1) The competent authority must ensure that energy regulatory authorities pay due regard to energy efficiency in carrying out the regulatory tasks regarding its decisions on the operation of the gas and electricity infrastructure.

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(2) The competent authority must, in particular, ensure that energy regulatory authorities, through the development of network tariffs and regulations, and taking into account the costs and benefits of each measure, provide incentives for grid operators to make available system services to network users permitting them to implement energy efficiency improvement measures in the context of the continuing deployment of smart grids and such systems services may be determined by the system operator and shall not adversely impact the security of the system.

(3) For electricity, the competent authority must ensure that network regulation and network tariffs fulfil the criteria in Schedule 14.

(4) The competent authority must, by 30 June 2015, ensure that–

(a) an assessment is undertaken of the energy efficiency potentials of gas and electricity infrastructure, in particular regarding transmission, distribution, load management and interoperability, and connection to energy generating installations, including access possibilities for micro energy generators; and

(b) concrete measures and investments are identified for the introduction of cost-effective energy efficiency improvements in the network infrastructure, with a timetable for their introduction.

(5) The competent authority may permit components of schemes and tariff structures with a social aim for net-bound energy transmission and distribution, provided that any disruptive effects on the transmission and distribution system are kept to the minimum necessary and are not disproportionate to the social aim.

(6) The competent authority must ensure the removal of those incentives in transmission and distribution tariffs that are detrimental to the overall efficiency (including energy efficiency) of the generation, transmission, distribution and supply of electricity or those that might hamper participation of demand response, in balancing markets and ancillary services procurement.

(7) The competent authority must ensure that–

(a) network operators are incentivised to improve efficiency in infrastructure design and operation; and

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(b) tariffs allow suppliers to improve consumer participation in system efficiency, including demand response, depending on circumstances of Gibraltar.

(8) Without prejudice to regulation 20(2) of the Environment (Renewable Energy Sources) Regulations 2011 and taking into account the need to ensure continuity in heat supply, the competent authority must ensure that subject to requirements relating to the maintenance of the reliability and safety of the grid, based on transparent and non-discriminatory criteria set by the competent authority appointed under those Regulations, transmission system operators and distribution system operators when they are in charge of dispatching the generating installations–

(a) guarantee the transmission and distribution of electricity from high-efficiency cogeneration;

(b) provide priority or guaranteed access to the grid of electricity from high-efficiency cogeneration;

(c) when dispatching electricity generating installations, provide priority dispatch of electricity from high-efficiency cogeneration in so far as the secure operation of the electricity system permits.

(9) The competent authority must ensure that rules relating to the ranking of the different access and dispatch priorities granted in the electricity systems are clearly explained in detail and published and when providing priority access or dispatch for high-efficiency cogeneration, the competent authority may set rankings as between, and within different types of, renewable energy and high-efficiency cogeneration and shall in any case ensure that priority access or dispatch for energy from variable renewable energy sources is not hampered.

(10) In addition to the obligations laid down by subsection (8), transmission system operators and distribution system operators shall comply with the requirements set out in Schedule 15.

(11) The competent authority–

(a) may particularly facilitate the connection to the grid system of electricity produced from high-efficiency cogeneration from small-scale and micro-cogeneration units; and

(b) shall, where appropriate, take steps to encourage network operators to adopt a simple notification “install and inform”

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process for the installation of micro-cogeneration units to simplify and shorten authorisation procedures for individual citizens and installers.

(12) Subject to the requirements relating to the maintenance of the reliability and safety of the grid, the competent authority must take the appropriate steps to ensure that, where this is technically and economically feasible with the mode of operation of the high-efficiency cogeneration installation, high-efficiency cogeneration operators can offer balancing services and other operational services at the level of transmission system operators or distribution system operators.

(13) Transmission system operators and distribution system operators shall ensure that such services are part of a services bidding process which is transparent, non-discriminatory and open to scrutiny and where appropriate, the competent authority may require transmission system operators and distribution system operators to encourage high-efficiency cogeneration to be sited close to areas of demand by reducing the connection and use-of-system charges.

(14) The competent authority–

(a) may allow producers of electricity from high-efficiency cogeneration wishing to be connected to the grid to issue a call for tender for the connection work; and

(b) shall ensure that energy regulatory authorities encourage demand side resources, such as demand response, to participate alongside supply in wholesale and retail markets.

(15) Subject to technical constraints inherent in managing networks, the competent authority must–

(a) ensure that transmission system operators and distribution system operators, in meeting requirements for balancing and ancillary services, treat demand response providers, including aggregators, in a non-discriminatory manner, on the basis of their technical capabilities; and

(b) promote access to and participation of demand response in balancing, reserve and other system services markets, inter alia by requiring the energy regulatory authorities or, where the regulatory systems so require, transmission system operators and distribution system operators in close cooperation with demand service providers and consumers, to define technical modalities for participation in these markets on the basis of the

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technical requirements of these markets and the capabilities of demand response, such specifications shall include the participation of aggregators.

(16) When reporting under the Pollution Prevention and Controls Regulations 2013, and without prejudice to regulation 17(2) of those Regulations, the competent authority must consider including information on energy efficiency levels of installations undertaking the combustion of fuels with total rated thermal input of 50 MW or more in the light of the relevant best available techniques developed in accordance with the Pollution Prevention and Controls Regulations 2013.

(17) The competent authority may encourage operators of installations referred to in subsection (16) to improve their annual average net operational rates.

PART IIIB
HORIZONTAL PROVISIONS

Availability of qualification, accreditation and certification schemes.

13D.(1) Where the competent authority considers that the level of technical competence, objectivity and reliability is insufficient in Gibraltar, it must ensure that, by 31 December 2014, certification or accreditation schemes or both or equivalent qualification schemes, including, where necessary, suitable training programmes, become or are available for providers of energy services, energy audits, energy managers and installers of energy-related building elements as defined in the Environment (Energy Performance of Buildings) Regulations 2012.

(2) The competent authority must ensure that the schemes referred to in subsection (1) provide transparency to consumers, are reliable and contribute to Gibraltar's energy efficiency objectives.

(3) The competent authority must–

(a) make publicly available the certification or accreditation schemes or both or equivalent qualification schemes referred to in subsection (1);

(b) co-operate with other Member States and with the European Commission on comparisons between, and recognition of, the schemes; and

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(c) take appropriate measures to make consumers aware of the availability of qualification or certification schemes or both in accordance with section 13F(1).

Information and training.

13E.(1) The competent authority must ensure that information on available energy efficiency mechanisms and financial and legal frameworks is transparent and widely disseminated to all relevant market actors, such as consumers, builders, architects, engineers, environmental and energy auditors, and installers of building elements as defined in the Environment (Energy Performance of Buildings) Regulations 2012.

(2) The competent authority must encourage the provision of information to banks and other financial institutions on possibilities of participating, including through the creation of public or private partnerships, in the financing of energy efficiency improvement measures.

(3) The competent authority must–

(a) establish appropriate conditions for market operators to provide adequate and targeted information and advice to energy consumers on energy efficiency; and

(b) with the participation of stakeholders and other relevant authorities, promote suitable information, awareness-raising and training initiatives to inform citizens of the benefits and practicalities of taking energy efficiency improvement measures.

Energy services.

13F.(1) The competent authority must promote the energy services market and access for SMEs to this market by–

(a) disseminating clear and easily accessible information on–

(i) available energy service contracts and clauses that should be included in such contracts to guarantee energy savings and final customers' rights;

(ii) financial instruments, incentives, grants and loans to support energy efficiency service projects;

(b) encouraging the development of quality labels, inter alia, by trade associations;

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(c) making publicly available and regularly updating a list of available energy service providers who are qualified and/or certified and their qualifications and/or certifications in accordance with section 13D, or providing an interface where energy service providers can provide information;

(d) supporting the public sector in taking up energy service offers, in particular for building refurbishment, by–

(i) providing model contracts for energy performance contracting which include at least the items listed in Schedule 16;

(ii) providing information on best practices for energy performance contracting, including, if available, cost-benefit analysis using a life-cycle approach;

(e) providing a qualitative review in the framework of Gibraltar's Energy Efficiency Action Plan regarding the current and future development of the energy services market.

(2) The competent authority must support the proper functioning of the energy services market, where appropriate, by–

(a) identifying and publicising point(s) of contact where final customers can obtain the information referred to in subsection (1);

(b) taking, if necessary, measures to remove the regulatory and non-regulatory barriers that impede the uptake of energy performance contracting and other energy efficiency service models for the identification or implementation of energy saving measures or both;

(c) considering putting in place or assigning the role of an independent mechanism, such as an ombudsman, to ensure the efficient handling of complaints and out-of-court settlement of disputes arising from energy service contracts;

(d) enabling independent market intermediaries to play a role in stimulating market development on the demand and supply sides.

(3) The competent authority must ensure that energy distributors, distribution system operators and retail energy sales companies refrain from

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any activities that may impede the demand for and delivery of energy services or other energy efficiency improvement measures, or hinder the development of markets for such services or measures, including foreclosing the market for competitors or abusing dominant positions.

Other measures to promote energy efficiency.

13G.(1) The competent authority must evaluate and if necessary take appropriate measures to remove regulatory and non-regulatory barriers to energy efficiency, without prejudice to the basic principles of the property and tenancy law of Gibraltar, in particular as regards–

(a) the split of incentives between the owner and the tenant of a building or among owners, with a view to ensuring that these parties are not deterred from making efficiency-improving investments that they would otherwise have made by the fact that they will not individually obtain the full benefits or by the absence of rules for dividing the costs and benefits between them, including rules and measures regulating decision-making processes in multi-owner properties;

(b) legal and regulatory provisions, and administrative practices, regarding public purchasing and annual budgeting and accounting, with a view to ensuring that individual public bodies are not deterred from making investments in improving energy efficiency and minimising expected life-cycle costs and from using energy performance contracting and other third-party financing mechanisms on a long-term contractual basis.

(2) The measures taken under subsection (1) to remove barriers may–

(a) include providing incentives, repealing or amending legal or regulatory provisions, or adopting guidelines and interpretative communications, or simplifying administrative procedures; and

(b) be combined with the provision of education, training and specific information and technical assistance on energy efficiency.

(3) The evaluation of barriers and measures referred to in subsections (1) and (2) shall be notified to the European Commission in the first Energy Efficiency Action Plan referred to in section 14(3).

Energy Efficiency Fund, Financing and Technical Support.

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13H.(1) Without prejudice to Articles 107 and 108 of the Treaty on the Functioning of the European Union, the competent authority must facilitate the establishment of financing facilities, or use of existing ones, for energy efficiency improvement measures to maximise the benefits of multiple streams of financing.

(2) The competent authority may–

(a) set up an Energy Efficiency Fund and the purpose of this fund shall be to support energy efficiency initiatives;

(b) allow for the obligations set out in section 7(1) to be fulfilled by annual contributions to the Energy Efficiency Fund of an amount equal to the investments required to achieve those obligations;

(c) provide that obligated parties can fulfil their obligations set out in section 9(1) by contributing annually to the Energy Efficiency Fund an amount equal to the investments required to achieve those obligations; and

(d) use its revenues from annual emission allocations under Decision No 406/2009/EC for the development of innovative financing mechanisms to give practical effect to the objective in section 7 of improving the energy performance of buildings.

Conversion factors.

13I. For the purpose of comparison of energy savings and conversion to a comparable unit, the conversion factors set out in Schedule 7 shall apply unless the use of other conversion factors can be justified.

PART IV
FINAL PROVISIONS

Review and monitoring of implementation.

14.(1) As soon as is reasonably practicable and thereafter by 30 April each year, the competent authority must report on the progress achieved towards energy efficiency targets for Gibraltar in accordance with Part 1 of Schedule 17.

(2) The report referred to in subsection (1) may form part of the Reform Programmes referred to in Council Recommendation 2010/410/EU of 13 July 2010 on broad guidelines for the economic policies of the Member States and of the Union.

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(3) As soon as is reasonably practicable, by 30 April 2017 and every 3 years thereafter, the competent authority must submit the Energy Efficiency Action Plans for Gibraltar.

(4) The Energy Efficiency Action Plans referred to in subsection (3) shall cover significant energy efficiency improvement measures and expected or achieved energy savings or both, including those in the supply, transmission and distribution of energy as well as energy end-use, in view of achieving the energy efficiency targets for Gibraltar referred to in section 5(1).

(5) The Energy Efficiency Action Plans referred to in subsection (3) shall be complemented with updated estimates of expected overall primary energy consumption in 2020, as well as estimated levels of primary energy consumption in the sectors indicated in Part 1 of Schedule 17.

(6) The Energy Efficiency Action Plans referred to in subsection (3) shall in any case include the information specified in Schedule 17.

(7) The competent authority must ensure that the following are submitted to the European Commission–

(a) before 30 April each year statistics on the electricity and heat production from high and low efficiency cogeneration, in accordance with the methodology shown in Schedule 2, in relation to total heat and electricity production;

(b) annual statistics on cogeneration heat and electricity capacities and fuels for cogeneration, and on district heating and cooling production and capacities, in relation to total heat and electricity production and capacities;

(c) statistics on primary energy savings achieved by application of cogeneration in accordance with the methodology shown in Schedule 5.

Regulations.

15.(1) The Minister may make regulations giving effect to, or enabling the enforcement of any obligation incumbent on the Minister or on the competent authority in accordance with the provisions of this Act.

(2) Regulations made under this section may make provision for offences and civil and criminal penalties.

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Offences.

16. Any act or omission by any energy distributors, distribution system operators and retail energy sales companies–

(a) contrary to any instruction given to it by the Minister or the competent authority pursuant to the provisions of this Act; or

(b) contrary to any provision of this Act,

is an offence punishable on summary conviction to a fine not exceeding level 4 on the standard scale.

Schedules.

17. The Schedules shall have effect.

Competent Authority.

18.(1) The Minister shall be the competent authority unless the Government by notice in the Gazette designates another person.

(2) The competent authority shall ensure that the provisions of this Act and the requirements of the Directive are complied with.

(3) For the purposes of subsection (2) the competent may by written Direction require the person to whom the notice is addressed to comply with its terms.

(4) A Direction under subsection (3) may require the performance of an act where this Act or the Directive require that it be done by the competent authority or otherwise.

Administrative penalties.

19.(1) A person who without reasonable excuse fails to comply with a Direction issued under section 18(3) may, after being given an opportunity to be heard, be liable to an administrative penalty.

(2) An administrative penalty imposed under subsection (1) shall have regard–

(a) to the nature of the breach and the effects of that breach;

(b) to the need for it to be proportionate, effective and dissuasive.

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(3) An administrative penalty issued under this section may not exceed the sum equivalent to the sum that a Court may impose under level 5 of the standard scale of fines.

Appeals.

20.(1) A person who is aggrieved by–

(a) a Direction under section 18(3);

(b) the imposition of an administrative penalty, or

may appeal to the Magistrates' Court within 21 days from the date of the penalty.

(2) The Magistrates' Court may after considering the matter, uphold, quash or amend the administrative penalty as it deems fit.

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SCHEDULE 1
Repealed

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SCHEDULE 2

Sections 2 and 14(7)(a)

GENERAL PRINCIPLES FOR THE CALCULATION OF ELECTRICITY FROM COGENERATION

Part I

General principles

Values used for calculation of electricity from cogeneration shall be determined on the basis of the expected or actual operation of the unit under normal conditions of use. For micro- cogeneration units the calculation may be based on certified values.

1. Electricity production from cogeneration shall be considered equal to total annual electricity production of the unit measured at the outlet of the main generators–

(a) in cogeneration units of types (b), (d), (e), (f), (g) and (h) referred to in Part II with an annual overall efficiency set by the competent authority at a level of at least 75%; and

(b) in cogeneration units of types (a) and (c) referred to in Part II with an annual overall efficiency set by the competent authority at a level of at least 80%.

2. In cogeneration units with an annual overall efficiency below the value referred to in paragraph 1(a) above (cogeneration units of types (b), (d), (e), (f), (g), and (h) referred to in Part II) or with an annual overall efficiency below the value referred to in paragraph 1(b) above (cogeneration units of types (a) and (c) referred to in Part II) cogeneration is calculated according to the following formula:

$E_{CHP}=H_{CHP}*C$

where:

E_{CHP} is the amount of electricity from cogeneration;

C is the power-to-heat ratio;

H_{CHP} is the amount of useful heat from cogeneration (calculated for this purpose as total heat production minus any heat produced in separate

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boilers or by live steam extraction from the steam generator before the turbine).

The calculation of electricity from cogeneration must be based on the actual power-to-heat ratio. If the actual power-to-heat ratio of a cogeneration unit is not known, the following default values may be used, in particular for statistical purposes, for units of types (a), (b), (c), (d) and (e) referred to in Part II provided that the calculated cogeneration electricity is less or equal to total electricity production of the unit:

Type of the unit	Default power to heat ratio, C
Combined cycle gas turbine with heat recovery	0,95
Steam back pressure turbine	0,45
Steam condensing extraction turbine	0,45
Gas turbine with heat recovery	0,55
Internal combustion engine	0,75

If the competent authority introduces default values for power-to-heat ratios for units of types (f), (g), (h), (i), (j) and (k) referred to in Part II, such default values shall be published and shall be notified to the European Commission.

3. If a share of the energy content of the fuel input to the cogeneration process is recovered in chemicals and recycled this share can be subtracted from the fuel input before calculating the overall efficiency used in paragraphs 1 and 2 above.

4 The competent authority may determine the power-to-heat ratio as the ratio of electricity to useful heat when operating in cogeneration mode at a lower capacity using operational data of the specific unit.

5. The competent authority may use other reporting periods than one year for the purpose of the calculations according to paragraphs 1 and 2 above.

Part II

Cogeneration technologies covered by this Act

(a) Combined cycle gas turbine with heat recovery

(b) Steam back pressure turbine

(c) Steam condensing extraction turbine

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(d) Gas turbine with heat recovery

(e) Internal combustion engine

(f) Microturbines

(g) Stirling engines

(h) Fuel cells

(i) Steam engines

(j) Organic Rankine cycles

(k) Any other type of technology or combination thereof falling within the meaning of "cogeneration" as defined by section 2.

When implementing and applying the general principles for the calculation of electricity from cogeneration, the competent authority shall use the detailed Guidelines established by Commission Decision 2008/952/EC of 19 November 2008 establishing detailed guidelines for the implementation and application of Annex II to Directive 2004/8/EC of the European Parliament and of the Council.".

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SCHEDULE 3
Repealed

SCHEDULE 4
Repealed

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SCHEDULE 5

Sections 2, 13B(17), 14(7)

METHODOLOGY FOR DETERMINING THE EFFICIENCY OF THE COGENERATION PROCESS

Values used for calculation of efficiency of cogeneration and primary energy savings shall be determined on the basis of the expected or actual operation of the unit under normal conditions of use.

1.High-efficiency cogeneration

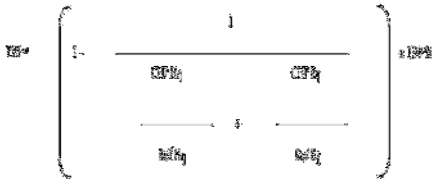
For the purpose of this Act high-efficiency cogeneration shall fulfil the following criteria–

(a) cogeneration production from cogeneration units shall provide primary energy savings calculated according to paragraph 2 of at least 10 % compared with the references for separate production of heat and electricity; and

(b) production from small-scale and micro-cogeneration units providing primary energy savings may qualify as high-efficiency cogeneration.

2. Calculation of primary energy savings

The amount of primary energy savings provided by cogeneration production defined in accordance with Schedule 2 shall be calculated on the basis of the following formula–



Where:

PES is primary energy savings.

CHP Hη is the heat efficiency of the cogeneration production defined as annual useful heat output divided by the fuel input used to produce the sum of useful heat output and electricity from cogeneration.

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Ref Hη is the efficiency reference value for separate heat production.

CHP Eη is the electrical efficiency of the cogeneration production defined as annual electricity from cogeneration divided by the fuel input used to produce the sum of useful heat output and electricity from cogeneration. Where a cogeneration unit generates mechanical energy, the annual electricity from cogeneration may be increased by an additional element representing the amount of electricity which is equivalent to that of mechanical energy. This additional element does not create a right to issue guarantees of origin in accordance with section 13B(17).

Ref Eη is the efficiency reference value for separate electricity production.

3. Calculations of energy savings using alternative calculation

The competent authority may calculate primary energy savings from a production of heat and electricity and mechanical energy as indicated below without applying Schedule 2 to exclude the non-cogenerated heat and electricity parts of the same process. Such a production can be regarded as high-efficiency cogeneration provided it fulfils the efficiency criteria in paragraph 1 of this Schedule and, for cogeneration units with an electrical capacity larger than 25 MW, the overall efficiency is above 70%. However, specification of the quantity of electricity from cogeneration produced in such a production, for issuing a guarantee of origin and for statistical purposes, shall be determined in accordance with Schedule 2.

If primary energy savings for a process are calculated using alternative calculation as indicated above the primary energy savings shall be calculated using the formula in paragraph 2 of this Schedule replacing: "CHP Hη" with “Hη” and “CHP Eη” with “Eη”, where:

Hη shall mean the heat efficiency of the process, defined as the annual heat output divided by the fuel input used to produce the sum of heat output and electricity output.

Eη shall mean the electricity efficiency of the process, defined as the annual electricity output divided by the fuel input used to produce the sum of heat output and electricity output. Where a cogeneration unit generates mechanical energy, the annual electricity from cogeneration may be increased by an additional element representing the amount of electricity which is equivalent to that of mechanical energy. This additional element will not create a right to issue guarantees of origin in accordance with section 13B (17).

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4. The competent authority may use other reporting periods than one year for the purpose of the calculations according to paragraphs 2 and 3 of this Schedule.

5. For micro-cogeneration units the calculation of primary energy savings may be based on certified data.

6. Efficiency reference values for separate production of heat and electricity

The harmonised efficiency reference values shall consist of a matrix of values differentiated by relevant factors, including year of construction and types of fuel, and must be based on a well-documented analysis taking, inter alia, into account data from operational use under realistic conditions, fuel mix and climate conditions as well as applied cogeneration technologies.

The efficiency reference values for separate production of heat and electricity in accordance with the formula set out in paragraph 2 shall establish the operating efficiency of the separate heat and electricity production that cogeneration is intended to substitute.

The efficiency reference values shall be calculated according to the following principles–

A. For cogeneration units the comparison with separate electricity production shall be based on the principle that the same fuel categories are compared.

B. Each cogeneration unit shall be compared with the best available and economically justifiable technology for separate production of heat and electricity on the market in the year of construction of the cogeneration unit.

C. The efficiency reference values for cogeneration units older than 10 years of age shall be fixed on the reference values of units of 10 years of age.

D. The efficiency reference values for separate electricity production and heat production shall reflect the climatic differences between Member States.

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SCHEDULE 6

Section 8(1)

ENERGY EFFICIENCY REQUIREMENTS FOR PURCHASING PRODUCTS, SERVICES AND BUILDINGS BY GOVERNMENT

Where the Government purchases products, services or buildings, insofar as this is consistent with cost-effectiveness, economical feasibility, wider sustainability, technical suitability, as well as sufficient competition, shall–

(a) where a product is covered by a delegated act adopted under Directive 2010/30/EU or by a related Commission implementing directive, purchase only the products that comply with the criterion of belonging to the highest energy efficiency class possible in the light of the need to ensure sufficient competition;

(b) purchase office equipment products covered by Council Decision 2006/1005/EC of 18 December 2006 concerning conclusion of the Agreement between the Government of the United States of America and the European Community on the coordination of energy-efficiency labelling programmes for office equipment that comply with energy efficiency requirements not less demanding than those listed in Annex C to the Agreement attached to that Decision;

(c) purchase only tyres that comply with the criterion of having the highest fuel energy efficiency class, as defined by Regulation (EC) No 1222/2009 of the European Parliament and of the Council of 25 November 2009 on the labelling of tyres with respect to fuel efficiency and other essential parameters. This requirement shall not prevent public bodies from purchasing tyres with the highest wet grip class or external rolling noise class where justified by safety or public health reasons;

(d) require in their tenders for service contracts that service providers use, for the purposes of providing the services in question, only products that comply with the requirements referred to in points (a) to (d), when providing the services in question. This requirement shall apply only to new products purchased by service providers partially or wholly for the purpose of providing the service in question;

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(e) purchase, or make new rental agreements for, only buildings that comply at least with the minimum energy performance requirements referred to in section 7(1) to (6) unless the purpose of the purchase is–

(i) to undertake deep renovation or demolition;

(ii) in the case of public bodies, to re-sell the building without using it for public body's own purposes; or

(iii) to preserve it as a building officially protected as part of a designated environment, or because of its special architectural or historical merit.

Compliance with these requirements shall be verified by means of the energy performance certificates referred to in regulation 12 of the Environment (Energy Performance of Buildings) Regulations 2012.

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SCHEDULE 7

Sections 9(8) and (20) and 13I

ENERGY CONTENT OF SELECTED FUELS FOR END USE – CONVERSION TABLE

Energy commodity	kj (NCV)	kgoe (NCV)	kWh (NCV)
1 kg coke	28 500	0,676	7,917
1 kg hard coal	17 200 — 30 700	0,411 — 0,733	4,778 — 8,528
1 kg brown coal briquettes	20 000	0,478	5,556
1 kg black lignite	10 500 — 21 000	0,251 — 0,502	2,917 — 5,833
1 kg brown coal	5 600 — 10 500	0,134 — 0,251	1,556 — 2,917
1 kg oil shale	8 000 — 9 000	0,191 — 0,215	2,222 — 2,500
1 kg peat	7 800 — 13 800	0,186 — 0,330	2,167 — 3,833
1 kg peat briquettes	16 000 — 16 800	0,382 — 0,401	4,444 — 4,667
1 kg residual fuel oil (heavy oil)	40 000	0,955	11,111
1 kg light fuel oil	42 300	1,010	11,750
1 kg motor spirit (petrol)	44 000	1,051	12,222
1 kg paraffin	40 000	0,955	11,111
1 kg liquefied petroleum gas	46 000	1,099	12,778
1 kg natural gas (1)	47 200	1,126	13,10
1 kg liquefied natural gas	45 190	1,079	12,553
1 kg wood (25 % humidity) (2)	13 800	0,330	3,833
1 kg pellets/wood bricks	16 800	0,401	4,667
1 kg waste	7 400 — 10 700	0,177 — 0,256	2,056 — 2,972
1 MJ derived heat	1 000	0,024	0,278
1 kWh electrical energy	3 600	0,086	1 (3)

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Source: Eurostat.

(1) 93% methne.

(2) The competent authority may apply other values depending on the type of wood most used in the respective Member State.

(3) Applicable when energy savings are calculated in primary energy terms using a bottom-up approach based on final energy consumption. For savings in kWh electricity the competent authority may apply a default coefficient of 2,5. The competent authority may apply a different coefficient provided they can justify it.

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SCHEDULE 8

Section 9 (10),(19) and (21).

Common methods and principles for calculating the impact of energy efficiency obligations schemes or other policy measures under section 9(1) to (4) and (16) to (20) and section 13H(2)(c)

Methods for calculating energy savings for the purposes of section 9(1) to (4) and paragraphs (b), (c), (d), (e) and (f) of subsection (18) and section 13H(2)(c).

Obligated, participating or entrusted parties or implementing public authorities may use one or more of the following methods for calculating energy savings:

(a) deemed savings, by reference to the results of previous independently monitored energy improvements in similar installations. The generic approach is termed “ex-ante”;

(b) metered savings, whereby the savings from the installation of a measure, or package of measures, is determined by recording the actual reduction in energy use, taking due account of factors such as additionality, occupancy, production levels and the weather which may affect consumption. The generic approach is termed “ex-post”;

(c) scaled savings, whereby engineering estimates of savings are used. This approach may only be used where establishing robust measured data for a specific installation is difficult or disproportionately expensive, e.g. replacing a compressor or electric motor with a different kWh rating than that for which independent information on savings has been measured, or where they are carried out on the basis of nationally established methodologies and benchmarks by qualified or accredited experts that are independent of the obligated, participating or entrusted parties involved;

(d) surveyed savings, where consumers’ response to advice, information campaigns, labelling or certification schemes, or smart metering is determined. This approach may only be used for savings resulting from changes in consumer behaviour. It may not be used for savings resulting from the installation of physical measures.

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2. In determining the energy saving for an energy efficiency measure for the purposes of section 9(1) to (4) and paragraphs (b), (c), (d), (e) and (f) of subsection (18) and section 14(2)(c) the following principles shall apply–

(a) credit may only be given for savings exceeding the levels of European Union emission performance standards for new passenger cars and new light commercial vehicles following the implementation of Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO_2 emissions from light-duty vehicles and Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO_2 emissions from light-duty vehicles, respectively;

(b) to account for climatic variations between regions, the competent authority may choose to adjust the savings to a standard value or to accord different energy savings in accordance with the temperature variations between regions;

(c) the activities of the obligated, participating or entrusted party must be demonstrably material to the achievement of the claimed savings;

(d) savings from an individual action may not be claimed by more than one party;

(e) calculation of energy savings shall take into account the lifetime of savings. This may be done by counting the savings each individual action will achieve between its implementation date and 31 December 2020. Alternatively, the competent authority may adopt another method that is estimated to achieve at least the same total quantity of savings. When using other methods, the competent authority shall ensure that the total amount of energy savings calculated with these other methods does not exceed the amount of energy savings that would have been the result of their calculation when counting the savings each individual action will achieve between its implementation date and 31 December 2020. The competent authority shall describe in detail in their first Energy Efficiency Action Plan of Gibraltar according to Schedule 17 to this Act, which other methods they have used and which provisions have been made to ensure this binding calculation requirement; and

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(f) actions by obligated, participating or entrusted parties, either individually or together, which aim to result in lasting transformation of products, equipment, or markets to a higher level of energy efficiency are permitted; and

(g) in promoting the uptake of energy efficiency measures, the competent authority shall ensure that quality standards for products, services and installation of measures are maintained. Where such standards do not exist, the competent authority shall work with obligated, participating or entrusted parties to introduce them.

3. In determining the energy saving from policy measures applied under section 9(18)(a) the following principles shall apply:

(a) credit shall only be given for energy savings from taxation measures exceeding the minimum levels of taxation applicable to fuels as required in Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity;

(b) recent and representative official data on price elasticities shall be used for calculation of the impact; and

(c) the energy savings from accompanying taxation policy instruments, including fiscal incentives or payment to a fund, shall be accounted separately.

4. Notification of methodology

The competent authority shall as soon as is reasonably practicable ensure that the European Commission is notified of the proposed detailed methodology for operation of the energy efficiency obligation schemes and for the purposes of section 9(16) to (20) and section 14(2)(c). Except in the case of taxes, such notification shall include details of–

(a) obligated, participating or entrusted parties, or implementing public authorities;

(b) target sectors;

(c) the level of the energy saving target or expected savings to be achieved over the whole and intermediate periods;

(d) the duration of the obligation period and intermediate periods;

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(e) eligible measure categories;

(f) calculation methodology, including how additionality and materiality are to be determined and which methodologies and benchmarks are used for engineering estimates;

(g) lifetimes of measures;

(h) approach taken to address climatic variations within Gibraltar;

(i) quality standards;

(j) monitoring and verification protocols and how the independence of these from the obligated, participating or entrusted parties is ensured;

(k) audit protocols; and

(l) how the need to fulfil the requirement in section 9(2) is taken into account.

In the case of taxes, the notification shall include details of

(a) target sectors and segment of taxpayers;

(b) implementing public authority;

(c) expected savings to be achieved;

(d) duration of the taxation measure and intermediate periods; and

(e) calculation methodology, including which price elasticities are used.

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SCHEDULE 9

Section 10

Minimum criteria for energy audits including those carried out as part of energy management systems

The energy audits referred to in section 10 shall be based on the following guidelines–

(a) be based on up-to-date, measured, traceable operational data on energy consumption and (for electricity) load profiles;

(b) comprise a detailed review of the energy consumption profile of buildings or groups of buildings, industrial operations or installations, including transportation;

(c) build, whenever possible, on life-cycle cost analysis (LCCA) instead of Simple Payback Periods (SPP) in order to take account of long-term savings, residual values of long-term investments and discount rates;

(d) be proportionate, and sufficiently representative to permit the drawing of a reliable picture of overall energy performance and the reliable identification of the most significant opportunities for improvement.

Energy audits shall allow detailed and validated calculations for the proposed measures so as to provide clear information on potential savings.

The data used in energy audits shall be storable for historical analysis and tracking performance.

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SCHEDULE 10

Section 12

Minimum requirements for billing and billing information based on actual consumption

1. Minimum requirements for billing

1.1. Billing based on actual consumption

In order to enable final customers to regulate their own energy consumption, billing should take place on the basis of actual consumption at least once a year, and billing information should be made available at least quarterly, on request or where the consumers have opted to receive electronic billing or else twice yearly. Gas used only for cooking purposes may be exempted from this requirement.

1.2. Minimum information contained in the bill

The competent authority must ensure that, where appropriate, the following information is made available to final customers in clear and understandable terms in or with their bills, contracts, transactions, and receipts at distribution stations–

(a) current actual prices and actual consumption of energy;

(b) comparisons of the final customer's current energy consumption with consumption for the same period in the previous year, preferably in graphic form;

(c) contact information for final customers' organisations, energy agencies or similar bodies, including website addresses, from which information may be obtained on available energy efficiency improvement measures, comparative end-user profiles and objective technical specifications for energy-using equipment.

In addition, wherever possible and useful, the competent authority must ensure that comparisons with an average normalised or benchmarked final customer in the same user category are made available to final customers in clear and understandable terms, in, with or signposted to within, their bills, contracts, transactions, and receipts at distribution stations.

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1.3. Advice on energy efficiency accompanying bills and other feedback to final customers

When sending contracts and contract changes, and in the bills customers receive or through websites addressing individual customers, energy distributors, distribution system operators and retail energy sales companies shall inform their customers in a clear and understandable manner of contact information for independent consumer advice centres, energy agencies or similar institutions, including their internet addresses, where they can obtain advice on available energy efficiency measures, benchmark profiles for their energy consumption and technical specifications of energy using appliances that can serve to reduce the consumption of these appliances.

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SCHEDULE 11

Section 13B(1)

Potential for efficiency in heating and cooling

1. The comprehensive assessment of heating and cooling potentials referred to in section 13B(1) and (2) shall include–

(a) a description of heating and cooling demand;

(b) a forecast of how this demand will change in the next 10 years, taking into account in particular the evolution of demand in buildings and the different sectors of industry;

(c) a map of Gibraltar, identifying, while preserving commercially sensitive information:

(i) heating and cooling demand points, including:

- municipalities and conurbations with a plot ratio of at least 0,3, and

- industrial zones with a total annual heating and cooling consumption of more than 20 GWh;

(ii) existing and planned district heating and cooling infrastructure;

(iii) potential heating and cooling supply points, including:

- electricity generation installations with a total annual electricity production of more than 20 GWh, and
- waste incineration plants,

- existing and planned cogeneration installations using technologies referred to in Part II of Schedule 2, and district heating installations;

(d) identification of the heating and cooling demand that could be satisfied by high-efficiency cogeneration, including residential micro-cogeneration, and by district heating and cooling;

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(e) identification of the potential for additional high-efficiency cogeneration, including from the refurbishment of existing and the construction of new generation and industrial installations or other facilities generating waste heat;

(f) identification of energy efficiency potentials of district heating and cooling infrastructure;

(g) strategies, policies and measures that may be adopted up to 2020 and up to 2030 to realise the potential in paragraph (e) in order to meet the demand in paragraph (d), including, where appropriate, proposals to–

(i) increase the share of cogeneration in heating and cooling production and in electricity production;

(ii) develop efficient district heating and cooling infrastructure to accommodate the development of high-efficiency cogeneration and the use of heating and cooling from waste heat and renewable energy sources;

(iii) encourage new thermal electricity generation installations and industrial plants producing waste heat to be located in sites where a maximum amount of the available waste heat will be recovered to meet existing or forecasted heat and cooling demand;

(iv) encourage new residential zones or new industrial plants which consume heat in their production processes to be located where available waste heat, as identified in the comprehensive assessment, can contribute to meeting their heat and cooling demands. This could include proposals that support the clustering of a number of individual installations in the same location with a view to ensuring an optimal matching between demand and supply for heat and cooling;

(v) encourage thermal electricity generating installations, industrial plants producing waste heat, waste incineration plants and other waste-to-energy plants to be connected to the local district heating or cooling network;

(vi) encourage residential zones and industrial plants which consume heat in their production processes to be connected to the local district heating or cooling network;

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(h) the share of high-efficiency cogeneration and the potential established and progress achieved under the Electricity (High Efficiency Cogeneration) Regulations 2010;

(i) an estimate of the primary energy to be saved;

(j) an estimate of public support measures to heating and cooling, if any, with the annual budget and identification of the potential aid element. This does not prejudge a separate notification of the public support schemes for a State aid assessment.

2. To the extent appropriate, the comprehensive assessment may be made up of an assembly of regional or local plans and strategies.

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SCHEDULE 12

Section 13B

COST-BENEFIT ANALYSIS

Part 1
General principles of the cost-benefit analysis

The purpose of preparing cost-benefit analyses in relation to measures for promoting efficiency in heating and cooling as referred to in section 13B(4) is to provide a decision base for qualified prioritisation of limited resources at society level.

The cost-benefit analysis may either cover a project assessment or a group of projects for a broader assessment in order to establish the most cost-effective and beneficial heating or cooling option for a given geographical area for the purpose of heat planning.

Cost-benefit analyses for the purposes of section 13B(4) shall include an economic analysis covering socio-economic and environmental factors.

The cost-benefit analyses shall include the following steps and considerations:

(a) Establishing a system boundary and geographical boundary

The scope of the cost-benefit analyses in question determines the relevant energy system. The geographical boundary shall cover a suitable well-defined geographical area, e.g. a given region or metropolitan area, to avoid selecting sub-optimised solutions on a project by project basis.

(b) Integrated approach to demand and supply options

The cost-benefit analysis shall take into account all relevant supply resources available within the system and geographical boundary, using the data available, including waste heat from electricity generation and industrial installations and renewable energy, and the characteristics of, and trends in heat and cooling demand.

(c) Constructing a baseline

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The purpose of the baseline is to serve as a reference point, to which the alternative scenarios are evaluated.

(d) Identifying alternative scenarios

All relevant alternatives to the baseline shall be considered. Scenarios that are not feasible due to technical reasons, financial reasons, regulation or time constraints may be excluded at an early stage of the cost-benefit analysis if justified based on careful, explicit and well-documented considerations.

Only high-efficiency cogeneration, efficient district heating and cooling or efficient individual heating and cooling supply options should be taken into account in the cost-benefit analysis as alternative scenarios compared to the baseline.

(e) Method for the calculation of cost-benefit surplus–

(i) The total long-term costs and benefits of heat or cooling supply options shall be assessed and compared.

(ii) The criterion for evaluation shall be the net present value (NPV) criterion.

(iii) The time horizon shall be chosen such that all relevant costs and benefits of the scenarios are included. For example, for a gas-fired power plant an appropriate time horizon could be 25 years, for a district heating system, 30 years, or for heating equipment such as boilers 20 years.

(f) Calculation and forecast of prices and other assumptions for the economic analysis–

(i) The competent authority must provide assumptions, for the purpose of the cost-benefit analyses, on the prices of major input and output factors and the discount rate.

(ii) The discount rate used in the economic analysis for the calculation of net present value shall be chosen according to European or Gibraltar's guidelines. (The discount rate chosen for the purpose of economic analysis should take into account data provided by the European Central Bank).

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(iii) The competent authority must use it's own, European or international energy price development forecasts.

(iv) The prices used in the economic analysis shall reflect the true socio economic costs and benefits and should include external costs, such as environmental and health effects, to the extent possible, i.e. when a market price exists or when it is already included in European or Gibraltar regulation.

(g) Economic analysis: Inventory of effects

The economic analyses shall take into account all relevant economic effects.

The competent authority may assess and take into account in decision making costs and energy savings from the increased flexibility in energy supply and from a more optimal operation of the electricity networks, including avoided costs and savings from reduced infrastructure investment, in the analysed scenarios.

The costs and benefits taken into account shall include at least the following:

(i) Benefits

- Value of output to the consumer (heat and electricity)
- External benefits such as environmental and health benefits, to the extent possible

(ii) Costs

- Capital costs of plants and equipment
- Capital costs of the associated energy networks
- Variable and fixed operating costs
- Energy costs
- Environmental and health cost, to the extent possible

(h) Sensitivity analysis:

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A sensitivity analysis shall be included to assess the costs and benefits of a project or group of projects based on different energy prices, discount rates and other variable factors having a significant impact on the outcome of the calculations.

The competent authority must designate the competent authorities responsible for carrying out the cost-benefit analyses under section 13B. The competent authority may require the relevant authorities or operators of individual installations to carry out the economic and financial analysis. They shall provide the detailed methodologies and assumptions in accordance with this Schedule and establish and make public the procedures for the economic analysis.

Part 2

Principles for the purpose of section 13B(8), (9), (10) and (14)

The cost-benefit analyses shall provide information for the purpose of the measures mentioned in section 13B(8), (9), (10) and (14)–

If an electricity-only installation or an installation without heat recovery is planned, a comparison shall be made between the planned installations or the planned refurbishment and an equivalent installation producing the same amount of electricity or process heat, but recovering the waste heat and supplying heat through high-efficiency cogeneration and/or district heating and cooling networks.

Within a given geographical boundary the assessment shall take into account the planned installation and any appropriate existing or potential heat demand points that could be supplied from it, taking into account rational possibilities (for example, technical feasibility and distance).

The system boundary shall be set to include the planned installation and the heat loads, such as building(s) and industrial process. Within this system boundary the total cost of providing heat and power shall be determined for both cases and compared.

Heat loads shall include existing heat loads, such as an industrial installation or an existing district heating system, and also, in urban areas, the heat load and costs that would exist if a group of buildings or part of a city were provided with and/or connected into a new district heating network.

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The cost-benefit analysis shall be based on a description of the planned installation and the comparison installation(s), covering electrical and thermal capacity, as applicable, fuel type, planned usage and the number of planned operating hours annually, location and electricity and thermal demand.

For the purpose of the comparison, the thermal energy demand and the types of heating and cooling used by the nearby heat demand points shall be taken into account. The comparison shall cover infrastructure related costs for the planned and comparison installation.

Cost-benefit analyses for the purposes of Article 14(5) shall include an economic analysis covering a financial analysis reflecting actual cash flow transactions from investing in and operating individual installations.

Projects with positive cost-benefit outcome are those where the sum of discounted benefits in the economic and financial analysis exceeds the sum of discounted costs (cost-benefit surplus).

The competent authority must shall set guiding principles for the methodology, assumptions and time horizon for the economic analysis.

The competent authority may require that the companies responsible for the operation of thermal electric generation installations, industrial companies, district heating and cooling networks, or other parties influenced by the defined system boundary and geographical boundary, contribute data for use in assessing the costs and benefits of an individual installation.

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SCHEDULE 13

Section 13B (18)

Guarantee of origin for electricity produced from high-efficiency cogeneration

1. The competent authority shall take measures to ensure that-

(a) the guarantee of origin of the electricity produced from high-efficiency cogeneration:

(i) enable producers to demonstrate that the electricity they sell is produced from high-efficiency cogeneration and is issued to this effect in response to a request from the producer,

(ii) is accurate, reliable and fraud-resistant,

(iii) is issued, transferred and cancelled electronically;

(b) the same unit of energy from high-efficiency cogeneration is taken into account only once.

2. The guarantee of origin referred to in section 13B(17 to (20) shall contain at least the following information–

(a) the identity, location, type and capacity (thermal and electrical) of the installation where the energy was produced;

(b) the dates and places of production;

(c) the lower calorific value of the fuel source from which the electricity was produced;

(d) the quantity and the use of the heat generated together with the electricity;

(e) the quantity of electricity from high-efficiency cogeneration in accordance with Schedule 5 that the guarantee represents;

(f) the primary energy savings calculated in accordance with Schedule 5 based on the harmonised efficiency reference values indicated in paragraph (f) of Schedule 5;

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(g) the nominal electric and thermal efficiency of the plant;

(h) whether and to what extent the installation has benefited from investment support;

(i) whether and to what extent the unit of energy has benefited in any other way from a support scheme, and the type of support scheme;

(j) the date on which the installation became operational; and

(k) the date and country of issue and a unique identification number.

The guarantee of origin shall be of the standard size of 1 MWh. It shall relate to the net electricity output measured at the station boundary and exported to the grid.

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SCHEDULE 14

Section 13C(3)

Energy efficiency criteria for energy network regulation and for electricity network tariffs

1. Network tariffs shall be cost-reflective of cost-savings in networks achieved from demand-side and demand- response measures and distributed generation, including savings from lowering the cost of delivery or of network investment and a more optimal operation of the network.

2. Network regulation and tariffs shall not prevent network operators or energy retailers making available system services for demand response measures, demand management and distributed generation on organised electricity markets, in particular:

(a) the shifting of the load from peak to off-peak times by final customers taking into account the availability of renewable energy, energy from cogeneration and distributed generation;

(b) energy savings from demand response of distributed consumers by energy aggregators;

(c) demand reduction from energy efficiency measures undertaken by energy service providers, including energy service companies;

(d) the connection and dispatch of generation sources at lower voltage levels;

(e) the connection of generation sources from closer location to the consumption; and

(f) the storage of energy.

For the purposes of this provision the term "organised electricity markets" shall include over-the-counter markets and electricity exchanges for trading energy, capacity, balancing and ancillary services in all timeframes, including forward, day-ahead and intra-day markets.

3. Network or retail tariffs may support dynamic pricing for demand response measures by final customers, such as:

(a) time-of-use tariffs;

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(b) critical peak pricing;

(c) real time pricing; and

(d) peak time rebates.

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SCHEDULE 15

13C(10)

ENERGY EFFICIENCY REQUIREMENTS FOR TRANSMISSION SYSTEM OPERATORS AND DISTRIBUTION SYSTEM OPERATORS

Transmission system operators and distribution system operators shall–

(a) set up and make public their standard rules relating to the bearing and sharing of costs of technical adaptations, such as grid connections and grid reinforcements, improved operation of the grid and rules on the non-discriminatory implementation of the grid codes, which are necessary in order to integrate new producers feeding electricity produced from high-efficiency cogeneration into the interconnected grid;

(b) provide any new producer of electricity produced from high-efficiency cogeneration wishing to be connected to the system with the comprehensive and necessary information required, including:

(i) a comprehensive and detailed estimate of the costs associated with the connection;

(ii) a reasonable and precise timetable for receiving and processing the request for grid connection;

(iii) a reasonable indicative timetable for any proposed grid connection. The overall process to become connected to the grid should be no longer than 24 months, bearing in mind what is reasonably practicable and non-discriminatory;

(c) provide standardised and simplified procedures for the connection of distributed high-efficiency cogeneration producers to facilitate their connection to the grid.

The standard rules referred to in paragraph (a) shall be based on objective, transparent and non-discriminatory criteria taking particular account of all the costs and benefits associated with the connection of those producers to the grid. They may provide for different types of connection.

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SCHEDULE 16

Section 13F(1)

Minimum items to be included in energy performance contracts with the public sector or in the associated tender specifications

1. Clear and transparent list of the efficiency measures to be implemented or the efficiency results to be obtained.

2. Guaranteed savings to be achieved by implementing the measures of the contract.

3. Duration and milestones of the contract, terms and period of notice.

4. Clear and transparent list of the obligations of each contracting party.

5. Reference date(s) to establish achieved savings.

6. Clear and transparent list of steps to be performed to implement a measure or package of measures and, where relevant, associated costs.

7. Obligation to fully implement the measures in the contract and documentation of all changes made during the project.

8. Regulations specifying the inclusion of equivalent requirements in any subcontracting with third parties.

9. Clear and transparent display of financial implications of the project and distribution of the share of both parties in the monetary savings achieved (i.e. remuneration of the service provider).

10. Clear and transparent provisions on measurement and verification of the guaranteed savings achieved, quality checks and guarantees.

11. Provisions clarifying the procedure to deal with changing framework conditions that affect the content and the outcome of the contract (i.e. changing energy prices, use intensity of an installation).

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12. Detailed information on the obligations of each of the contracting party and of the penalties for their breach.

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SCHEDULE 17

Section 14

GENERAL FRAMEWORK FOR REPORTING
Part 1
General framework for annual reports

The annual reports referred to in section 14 (1) and (2) provides a basis for the monitoring of the progress towards Gibraltar's 2020 targets. The competent authority must ensure that the reports include the following minimum information–

(a) an estimate of following indicators in the year before last (year X[1] - 2):

(i) primary energy consumption;

(ii) total final energy consumption;

(iii) final energy consumption by sector–

A. industry

B. transport (split between passenger and freight transport, if available)

C. households

D. services;

(iv) gross value added by sector–

A. industry

B. services;

(v) disposable income of households;

(vi) gross domestic product (GDP);

(vii) electricity generation from thermal power generation;

[1] X= current year.

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(viii) electricity generation from combined heat and power;

(ix) heat generation from thermal power generation;

(x) heat generation from combined heat and power plants, including industrial waste heat;

(xi) fuel input for thermal power generation;

(xii) passenger kilometres (pkm), if available;

(xiii) tonne kilometres (tkm), if available;

(xiv) combined transport kilometres (pkm + tkm), in case (xii) and (xiii) are not available;

(xv) population.

In sectors where energy consumption remains stable or is growing, the competent authority must analyse the reasons for it and attach their appraisal to the estimates.

The second and subsequent reports shall also include points (b) to (e)–

(b) updates on major legislative and non-legislative measures implemented in the previous year which contribute towards the overall energy efficiency targets for 2020;

(c) the total building floor area of the buildings with a total useful floor area over 500 m2 and as of 9 July 2015 over 250 m2 owned and occupied by the Government that, on 1 January of the year in which the report is due, did not meet the energy performance requirements referred to in section 7;

(d) the total building floor area of heated or cooled or both buildings owned and occupied by the Government that was renovated in the previous year referred to in section 7 (1) to (6) or the amount of energy savings in eligible buildings owned and occupied by the Government as referred to in section 7(12) to (15);

(e) energy savings achieved through the energy efficiency obligation schemes referred to in section 9(1) to (3) or the alternative measures adopted in application of section 9(16) to (20).

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The first report shall also include the target referred to in section 5.

In the annual reports referred to in section 14(1) and (2), the competent authority may also include additional targets for Gibraltar. These may be related in particular to the statistical indicators enumerated in paragraph (a) of this Part or combinations thereof, such as primary or final energy intensity or sectoral energy intensities.

Part 2

General framework for Energy Efficiency Action Plans of Gibraltar

The Energy Efficiency Action Plans of Gibraltar referred to in section 14(3) to (5) shall provide a framework for the development of energy efficiency strategies for Gibraltar.

The Energy Efficiency Action Plans of Gibraltar shall cover significant energy efficiency improvement measures and expected or achieved energy savings, including those in the supply, transmission and distribution of energy as well as energy end-use. The competent authority must ensure that the Energy Efficiency Action Plans include the following minimum information–

1. Targets and strategies–

(a) the indicative energy efficiency target for 2020 as required by section 5,

(b) the indicative energy savings target for Gibraltar set in section 4(1) of this Act,

(c) other existing energy efficiency targets addressing the whole economy or specific sectors.

2. Measures and energy savings

The Energy Efficiency Action Plans of Gibraltar shall provide information on measures adopted or planned to be adopted in view of implementing the main elements of the Directive and on their related savings.

(a) Primary energy savings

I. The Energy Efficiency Action Plans shall list significant measures and actions taken towards primary energy saving in all sectors of the economy. For every measure or package of measures/actions estimations of expected savings for 2020 and savings

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achieved by the time of the reporting shall be provided.

II. Where available, information on other impacts/benefits of the measures (greenhouse gas emissions reduction, improved air quality, job creation, etc.) and the budget for the implementation should be provided.

(b) Final energy savings

I. The first and second Energy Efficiency Action Plans shall include the results with regard to the fulfilment of the final energy savings target set out in section 4. If calculation or estimation of savings per measure is not available, sector level energy reduction shall be shown due to (the combination) of measures.

II. The first and second Energy Efficiency Action Plans shall also include the measurement or calculation methodology or both used for calculating the energy savings. If the "recommended methodology"[2] is applied, the Energy Efficiency Action Plan should provide references to this.

3. Specific information related to the Directive–

3.1. Public bodies (section 7)

Energy Efficiency Action Plans shall include the list of public bodies having developed an energy efficiency plan in accordance with section 7(15).

3.2. Energy efficiency obligations (section 9)

Energy Efficiency Action Plans shall include the coefficients chosen in accordance with Schedule 7.

The first Energy Efficiency Action Plan shall include a short description of the scheme referred to in section 9(1) to (3) or the alternative measures adopted in application of section 9(16) to (20).

[2] Recommendations on Measurement and Verification Methods in the framework of the Directive 2006/32/EC on Energy End-Use Efficiency and Energy Services.

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3.3. Energy audits and management systems (section 10)

Energy Efficiency Action Plans shall include–

(a) the number of energy audits carried out in the previous period;

(b) the number of energy audits carried out in large enterprises in the previous period;

(c) the number of large companies in their territory, with an indication of the number of those to which section (10) and (11) is applicable.

3.4. Promotion of efficient heating and cooling (section 13B)

Energy Efficiency Action Plans shall include an assessment of the progress achieved in implementing the comprehensive assessment referred to in section 13B (1) and (2).

3.5. Energy transmission and distribution (Section 13C)

The first Energy Efficiency Action Plan and the subsequent reports due every 10 years thereafter shall include the assessment made, the measures and investments identified to utilise the energy efficiency potentials of gas and electricity infrastructure referred to in section 13C(4).

3.6. The competent authority must report, as part of their Energy Efficiency Action Plans, on the measures undertaken to enable and develop demand response as referred to in section 13C.

3.7. Availability of qualification, accreditation and certification schemes (section 13D)

Energy Efficiency Action Plans shall include information on the available qualification, accreditation and certification schemes or equivalent qualification schemes for the providers of energy services, energy audits and energy efficiency improvement measures.

3.8. Energy Services (section 13F)

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Energy Efficiency Action Plans shall include an internet link to the website where the list or the interface of energy services providers referred to in paragraph (c) of section 13F(1) can be accessible.

3.9. Other measures to promote energy efficiency (section 13G)

The first Energy Efficiency Action Plan shall include a list of the measures referred to in section 13G(1) and (2).".

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