



Department of the Environment,  
Sustainability, Climate Change  
and Heritage

HM Government of Gibraltar

# ESOS Phase III

Comply with the Energy Savings Opportunity Scheme

Guidance Document





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# Stages required for completion of ESOS

1. Identify if your organisation qualifies for ESOS.
2. If it does not, no further action is required, although you can still carry out an ESOS assessment on a voluntary basis. If it does, then:
  - identify all parts of your organisation – section 2
  - identify the deadlines for completing the ESOS assessment – section 3
  - identify your total energy consumption – section 4
  - identify your areas of significant energy consumption (at least 95% of your total energy consumption) – section 5
  - calculate your energy intensity ratios – section 6
  - consider your route to compliance – section 7
  - carry out an audit on all your significant energy consumption and identify energy savings opportunities – section 8
  - use an alternative compliance route – section 9
  - complete the ESOS report and share details with group undertakings where relevant – section 10
  - get the report signed off by board level directors – section 11
  - submit a compliance notification to the Department of the Environment and Climate Change through the online ESOS notification system, which contains the required compliance information about your organisation and your ESOS assessment – section 11

The deadline for submitting a compliance notification for the current (third) compliance period is 5<sup>th</sup> June 2025.

3. Following submission of the compliance notification:
  - complete an ESOS action plan by the action plan deadline of 5<sup>th</sup> June 2025 – section 12
  - complete 2 annual progress updates in the 2 years following the action plan deadline – section 13

## 1. What ESOS is and who it applies to

ESOS is an energy assessment and energy saving scheme and is established by the Energy Savings Opportunity Scheme Regulations 2016, under the Environmental Protection (Energy End-Use Efficiency) Act 2009. The scheme applies to large undertakings and groups containing large undertakings in Gibraltar.

An undertaking, as defined in the Companies Act 2014, is:

- a corporate body or partnership.

- an unincorporated association carrying on a trade or business, with or without a view to profit.

The ESOS Regulations have been substantially amended in 2024, through the Energy Savings Opportunity Scheme (Amendment) Regulations 2024, to make changes to the scheme.

## 1.1 Who qualifies for ESOS

You must take part in ESOS if your organisation qualifies as a large undertaking on the qualification date.

The qualification date for the third compliance period is 31<sup>st</sup> December 2022.

A large undertaking is any Gibraltar undertaking that meets either one or both of the following conditions:

1. It employs 250 or more people. For a Gibraltar registered undertaking, this includes all employees contracted to the undertaking either in Gibraltar or abroad, irrespective of the number of hours for which they are employed. For ESOS purposes, the definition of an employee for a non-Gibraltar registered undertaking with a Gibraltar registered establishment is someone directly contracted to the undertaking who is subject to income tax in Gibraltar.
2. It has an annual turnover in excess of £44 million and an annual balance sheet total in excess of £38 million.

For more information on the details of these thresholds, including rules around organisations which have recently grown or shrunk, see sections 1.4 to 1.6.

### **Changes to the qualification thresholds in the third compliance period**

For the first and second compliance periods the financial qualification thresholds were set in relation to euros. After the UK left the EU, the ESOS regulations were amended to set the qualification threshold in £ sterling. For the qualification date for the second compliance period (31 December 2018) the qualification thresholds were as below.

A large undertaking was any Gibraltar undertaking that met either one or both of the conditions below:

- it employed 250 or more people
- it had an annual turnover in excess of €50 million and an annual balance sheet total in excess of €43 million

Where accounts were quoted in pound sterling then participants were directed to use the Bank of England exchange rate between the Euro and pound sterling at close of business on the qualification date.



## **Undertakings that can qualify for ESOS**

Examples include:

- limited companies
- public companies
- trusts
- partnerships
- private equity companies or limited liability partnerships
- unincorporated associations
- not-for-profit bodies (please note that many larger charities will be a corporate body and as such are considered to be an undertaking)
- universities which get more than half their funding from private sources
- care homes that do not qualify as public bodies

### **Higher education institutions (HEIs)**

Public bodies are generally excluded from the scope of ESOS. However public body status in the HEI sector does not universally apply. This reflects different funding levels from public and private sources. ESOS has been implemented on the basis that it applies to HEIs that self-declare as private sector and meet the other requirement triggering ESOS qualification.

## **1.2 Who does not qualify for ESOS**

You are not required to participate in ESOS Phase III if:

- your organisation is defined as a body governed by public law (previously referred to as a contracting authority) in:
  - Procurement (Public Sector Contracts) Regulations 2016;
- your undertaking is subject to an insolvency procedure.
- you do not meet the qualification criteria outlined in section 1.1.

Where you are part of a corporate group and only parts of the group fall into the categories above then the rest of the group will be required to participate in ESOS if they qualify.

If an undertaking only voluntarily complies with the Procurement (Public Sector Contracts) Regulations 2016, they will still need to participate in ESOS.

Where a private organisation is undertaking work as a subcontractor for an organisation subject to the public contracting regulations, they will still need to assess their qualification in the normal way. If they qualify, they will need to participate in the scheme and include energy supplies which are deemed to be their responsibility.

Even if you do not qualify for ESOS, e.g. if you are an SME, you may wish to undertake an ESOS assessment to identify ways to reduce energy consumption

and to demonstrate your commitment to energy efficiency. Organisations which wish to do so can voluntarily notify that they have complied with the requirements of ESOS through the ESOS notification process and can then have their details published by the Department of the Environment and Climate Change as part of the list of ESOS compliant organisations.

## 1.3 Calculating whether you meet the qualification thresholds

To find out if you qualify, you will need to use your total employee numbers (calculated in accordance with section 1.4), and your turnover and balance sheet totals (see section 1.5) used in your accounts for the financial year ending either:

- on the qualification date of 31 December 2022
- in the 12 months immediately preceding the qualification date of 31 December 2022

These criteria apply to the individual undertakings in your group, so if you report using consolidated accounts you will need to ensure you consider whether any of the individual undertakings is a large undertaking in its own right.

As the rules for being a large undertaking or not require you to have exceeded the threshold, or falling below it for two consecutive years, if your undertaking is close to the qualification thresholds, or has grown or shrunk recently, read section 1.6 which includes additional information to help you establish if you qualify.

## 1.4 Definition of an employee

A person is employed by an undertaking if they are:

- an employee
- an owner or manager
- a partner

An ‘employee’ is a person employed under contracts of service or employment contract. Their contracted hours and status (full time/part time) are irrelevant to their classification as an employee.

If your organisation is reporting the number of its employees under the Companies Act requirements in its annual reports to Companies House, the rules used to calculate the figures for the annual report should be used for the purpose of determining qualification with ESOS.

The number of employees means the average number of people employed by the undertaking in the year, on a monthly basis.

To determine whether you meet the employee criteria you need to work out your average number of employees in the relevant accounting period:

- note the number of people employed by the company for each month of the financial year (whether for the whole month or part of it)
- add together the monthly total
- divide by the number of months in the financial year

#### 1.4.1 Overseas employees

If you are a Gibraltar undertaking which directly (i.e. not via a foreign subsidiary) employs people who are based overseas, you must still include them in your employee count.

If you are an overseas company with a Gibraltar establishment, you should determine your qualification based on the number of Gibraltar employees who pay income tax in Gibraltar.

#### 1.4.2 Agency workers

You usually do not have to count agency workers as employees, but you should check their contracts with a legal advisor to confirm this.

If you sub-contract work then you should talk to the Income Tax Office to find out if the sub-contractors are considered your employees.

If you're a sub-contractor and you take on work for an organisation that's subject to the Procurement (Public Sector Contracts) Regulations, this does not necessarily mean that the work you do for them is excluded from ESOS.

### **Worked example**

Company A's financial year runs from 1 April to 31 March the following year.

At the qualification date (31 December 2022) for the third ESOS compliance period, Company A's most recent set of financial statements are those for the year to 31 March 2022.

This means Company A must calculate the number of employees during that period.

On 1 April 2021, Company A had five directors and 235 employees. On 10 July 2021 Company A hired 20 more employees.

There were no further changes in employee or director numbers before the end of the year. For 3 months in its financial year (April, May and June) Company A had a total of 240 staff (5 directors plus 235 employees).

For 9 months of the year (July 2021 to March 2022) the company had a total 260 staff (5 directors and 255 employees).

For ESOS purposes, Company A's number of employees for the year is:  $[(240 \times 3) + (260 \times 9)] \div 12 = 255$ .

Company A exceeds the employee threshold of 250 at the qualification date. (However since they have recently gained staff they would need to look back over previous years' totals to establish if they qualify for ESOS – see section 1.6).

## 1.5 Meeting the financial conditions

To find out if you meet the financial threshold, you must calculate your turnover and balance sheet total.

You should start by checking your organisation's annual financial statements, ending on or in the 12 months before 31 December 2022.

If you are unsure whether your corporate group contains a large undertaking, based on financial criteria, each entity in a corporate group may need to look at the accounts required under the Companies Act 2014 Section 281 (duty to prepare individual accounts) or 238 (individual accounts: applicable accounting framework). Where an undertaking is not required under the Companies Act 2014 to produce individual accounts, they may need to estimate the annual turnover and annual balance sheet total for the undertaking for a 12 month period including the qualification date.

In summary, 'turnover' in relation to an undertaking means the amounts derived from the provision of goods and services falling within the company's ordinary activities, after deduction of:

- trade discounts
- value added tax
- any other taxes based on the amounts so derived

Most investment companies are simply investment vehicles for their shareholders.

As such, they do not supply goods or services to customers and have no turnover.

Where investment companies do not have turnover and also employ fewer than 250 persons, they fall outside the scope of ESOS in their own right. However, investment companies with at least one group member that provides goods and or services, and meets the definition of a large undertaking, qualify for ESOS.

'Balance sheet total' means the aggregate of the amounts shown as assets in the company's balance sheet (that is before deducting both current and long-term liabilities). Therefore, it is the gross figure, not the net figure.

### 1.5.1 Overseas activities

If your undertaking is registered in Gibraltar but directly owns or runs overseas activities (which are not subsidiaries), then you should include the turnover and balance sheet total contributions of these activities as you assess whether that undertaking qualifies in its own right.

If a Gibraltar company owns overseas subsidiaries, then the turnover and balance sheet totals of those companies are not included in the assessment of qualification for the Gibraltar undertaking.

## 1.6 Organisations which are very close to the qualification thresholds or have recently shrunk or grown

If your organisation is very close to the threshold for qualification or has recently grown or shrunk then you may need to look back over several accounting periods to establish if you qualify. This is because the status of an organisation is determined by whether they have maintained their size for at least two consecutive accounting periods.

So, for example, an organisation that was over the ESOS qualification threshold every year for the last 10 years and then shrunk in the accounts ending in April 2022 would still qualify for ESOS. This is because it has not maintained the smaller size for two consecutive accounting periods, so it is still considered as a large undertaking.

Conversely, if for the last five years a company did not meet the qualification thresholds and then has grown in its accounts ending in December 2022 (and now meets the qualification thresholds) then it would not qualify for ESOS. This is because it has not maintained the large undertaking size for two consecutive accounting periods, so it is still counted as a small or medium undertaking.

The table shows two scenarios of when Company A and Company B met the qualification thresholds over the past 5 year accounting period and if they qualify.

Company	2018	2019	2020	2021	2022	Qualified for ESOS
<b>A</b>	Yes	Yes	No	No	Yes	No
<b>B</b>	Yes	Yes	No	Yes	No	Yes

Company A is a small or medium enterprise (SME) and is not in scope of ESOS – although it meets the criteria of a large undertaking in the 2019 and 2022 accounting periods, it is not in scope of ESOS because it does not meet the large undertaking criteria for two consecutive accounting periods.

Company B is a large undertaking and is in scope of ESOS – although it falls below the criteria of a large undertaking in 2020 and 2022, it is in scope of ESOS because the last time it had two consecutive accounting periods at the same size it met the large undertaking criteria.

If an organisation has been fluctuating above and below the threshold year-on-year then the organisation will have to go back as far as it takes to find two consecutive years where the same status exists. This will then determine the organisational status for the purpose of its ESOS qualification. There is no end date for how far back organisations may have to go to determine this information (meaning they may have to go back to before the current ESOS compliance period).

If, since the organisation was formed, an organisation has never maintained two consecutive years at the same size then the size in the year it was formed will be what determines its organisational status for the purpose of its ESOS qualification. If an organisation has only been in existence for a few months it will take the average number of employees during that period and consider its finances on a pro-rata basis to determine its qualification status.

Please note, if you are close to the qualification threshold and are looking back at previous years' accounts then the exchange rate on the qualification date for the compliance period is what determines the pound sterling qualification thresholds for all previous years (not the exchange rate at the time of the accounts). Therefore, the figures which are relevant for compliance period three are an annual turnover in excess of £44 million and an annual balance sheet total in excess of £38 million.

## 2. Corporate groupings for qualification and participation

If a corporate group contains at least one undertaking in Gibraltar which meets the qualification conditions, its entire Gibraltar operation must take part in ESOS.

A corporate group is defined in the Companies Act 2014. Sections 2, 277 and 276, of that Act show how to identify if an undertaking is a parent to, or subsidiary of, another undertaking.

The highest Gibraltar parent of a group is the undertaking which has no parent, or only has parents which are overseas undertakings. All subsidiary undertakings of that highest Gibraltar parent would, by default, be part of the same participant for ESOS.

By default, the highest parent acts as the responsible undertaking – this means it will complete the ESOS Assessment and notify the Department of the Environment and Climate Change of compliance for itself and subsidiary undertakings.

Another undertaking within the highest parent group can be chosen to act as the responsible undertaking provided all undertakings in the highest parent group agree this in writing, and keep a copy of this agreement in their evidence pack.

Undertakings within a highest Gibraltar parent group can disaggregate from one another for the purposes of compliance with ESOS, provided they agree in

writing with their highest parent, again keeping a copy of this agreement in their evidence pack.

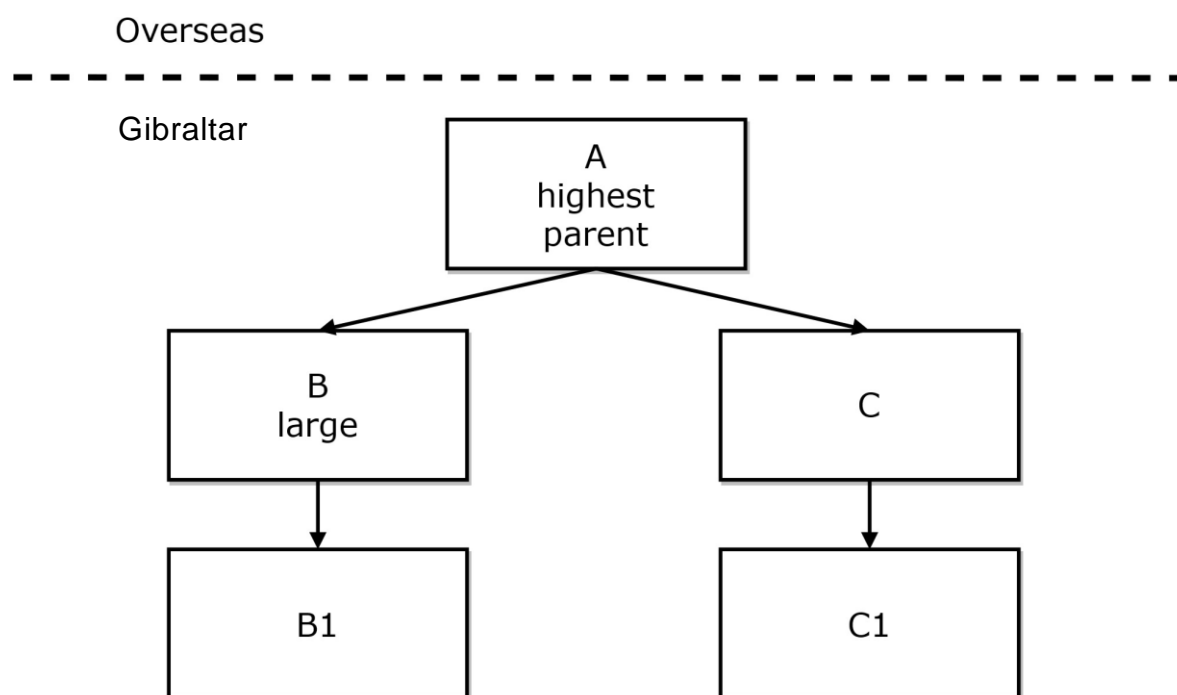
Undertakings that disaggregate must each report compliance as two or more separate participants. See section 2.6 for more details.

If a corporate group contains overseas parent undertakings, the corporate group may consist of more than one highest Gibraltar parent group. In this instance, if one highest Gibraltar parent group is in scope of ESOS then every other highest Gibraltar parent group in the same global group must also participate in ESOS. However, the default is that in this circumstance each highest Gibraltar parent group will participate separately.

If the highest Gibraltar parent groups within the same corporate group wish to comply as one participant (to 'aggregate') all highest parents in those highest parent groups must agree in writing which of them is to be the responsible undertaking in relation to the participant's compliance with the scheme. See section 2.7 for more details.

## 2.1 Examples of how to identify the corporate groupings for qualification

### Example 1: when all companies are Gibraltar undertakings



Company A has two subsidiaries: B and C. Company B has one subsidiary, B1, and Company C has one subsidiary, C1.

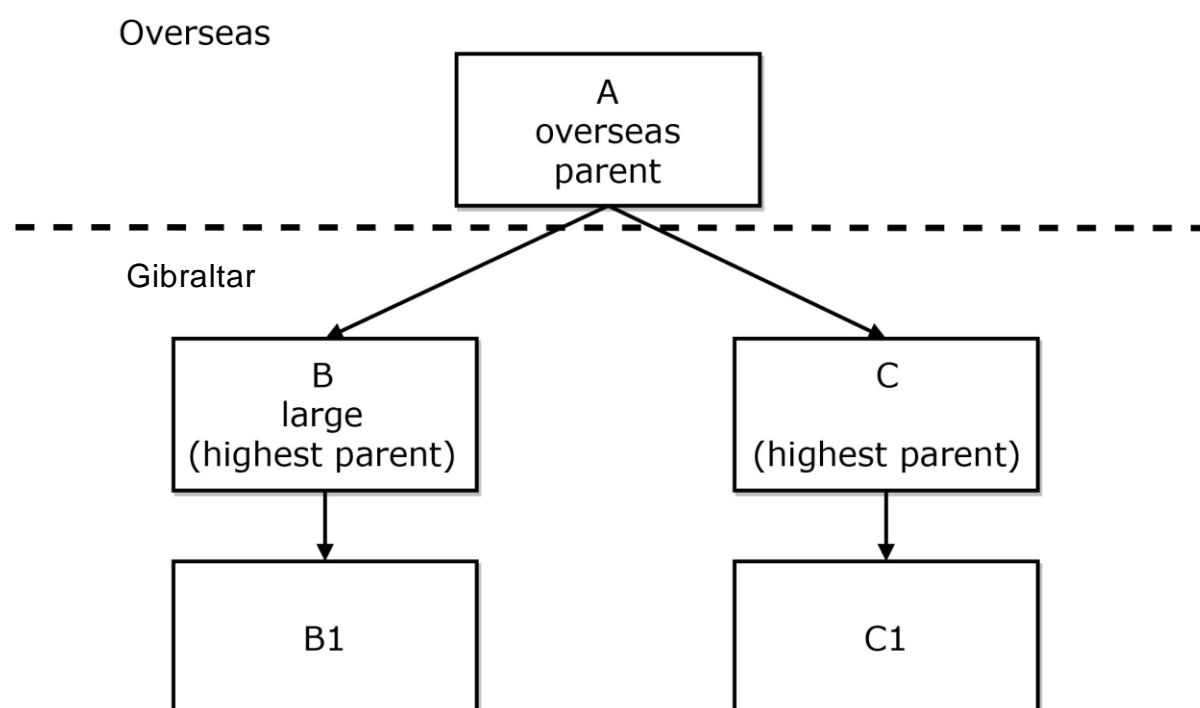
These companies make up a corporate group. All the companies are Gibraltar undertakings.

B qualifies as a large undertaking and so all companies within the corporate group must participate in ESOS.

Here, Company A is the highest parent and the companies jointly make up a highest Gibraltar parent group since they share a common highest Gibraltar parent.

For participation all the companies would form one participant (by default with the highest Gibraltar parent reporting), unless one or more of the subsidiary undertakings agree to disaggregate.

### **Example 2: corporate group with overseas parent**



A is an overseas undertaking. Both B and C are highest Gibraltar parents since neither has a Gibraltar based parent.

In this case there are two highest parent groups in the overall corporate group. Even though B is the only large undertaking in the group, C and C1 will still need to comply with ESOS since they are part of the same corporate group as B.

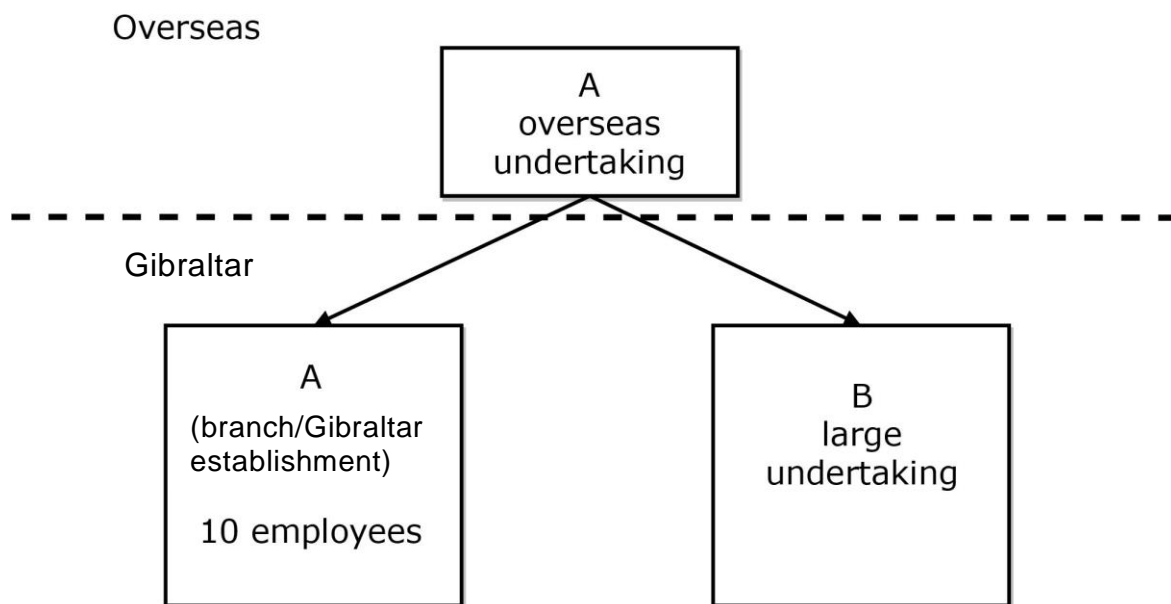
The fact they aren't in the same highest Gibraltar parent group as B is irrelevant to their ESOS qualification.

For participation B and B1 would form one participant (highest Gibraltar parent group), while C and C1 would form another unless one or more of the subsidiary undertakings agree to disaggregate.

A would not be required to participate because it is not an undertaking in Gibraltar.



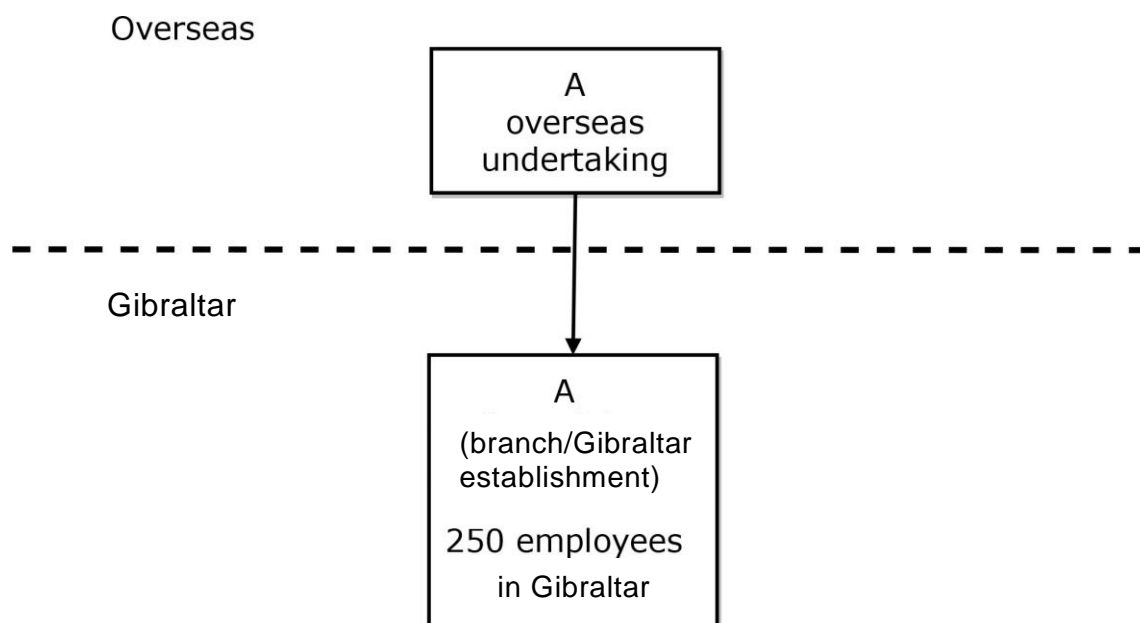
### Example 3: corporate group with Gibraltar establishments and Gibraltar large undertakings



A is an overseas undertaking with a branch in Gibraltar which is registered at Companies House as a Gibraltar establishment. As B is a large undertaking both A and B qualify for ESOS and they are both highest Gibraltar parents since neither has a Gibraltar based parent.

In this case there are two highest parent groups in the overall corporate group. They can agree to aggregate or participate separately to meet their obligations under ESOS.

### Example 4: corporate group with Gibraltar large establishment



A is an overseas undertaking with a branch in Gibraltar which is registered at Companies House as a Gibraltar establishment. A employs 250 staff in Gibraltar. A therefore must comply with ESOS.

## 2.2 Joint ventures

An undertaking is a parent undertaking to another undertaking (a subsidiary undertaking), if:

- it holds a majority of the voting rights in the undertaking, or
- it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors, or
- it has the right to exercise a dominant influence over the subsidiary undertaking:
  - by virtue of provisions contained in the undertaking's articles, or
  - by virtue of a control contract, or
- it is a member of the subsidiary undertaking and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in the undertaking.

For the purpose of ESOS qualification assessment and compliance an investor (undertaking) will only be deemed to be in the same corporate group as a company it invests in if it meets one of the points above.

Joint ventures will need to assess their qualification for ESOS on their own and will participate in the scheme in their own right if they qualify where either:

- no organisation holds a majority of the voting rights in the undertaking
- no organisation is a member of the undertaking and has the right to appoint or remove a majority of its board of directors
- no organisation has the right to exercise a dominant influence over the undertaking:
  - by virtue of provisions contained in the undertaking's articles, or
  - by virtue of a control contract, or
- no organisation is a member of the undertaking and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in the undertaking.

## 2.3 Franchises

For the purpose of determining ESOS qualification, franchisors are not grouped with their franchisees (unless they are also a parent undertaking of the franchisee undertaking).

If a franchisor and one or more franchisees all individually qualify and wish to comply as one participant, this is allowed.

This is subject to a written agreement between all parties, and one undertaking becoming the responsible undertaking.

You must keep all details relating to which organisations are participating together in your evidence pack.

## 2.4 Trusts

Assets held in trust must be included in ESOS if the organisation that is party to the agreement for the supply of energy to the assets qualifies for ESOS.

The qualification of these parties is determined in the normal way.

Where there is no energy supply, the trust assets will not need to be included in an ESOS assessment because trust assets only fall into ESOS if an energy supply agreement is held. Please note that the concept of a supply agreement being in place only affects the qualification of trusts for ESOS, all other types of undertaking which meet the qualification criteria will be required to participate in ESOS if they meet the qualification criteria.

The table summarises how responsibility for ESOS compliance for a trust asset is determined.

Asset responsibility	Arranges the supply of energy to the asset	Qualifies for ESOS in their own right	Include the asset as part of their own ESOS assessment	Include the asset as a separate ESOS compliance notification
<b>Dominant beneficiary</b>	Yes	Yes	Yes	No
<b>Alternative Investment Fund Manager (AIFM)</b>	Yes	Yes	No	Yes
<b>Operator (Op)</b>	Yes	Yes	No	Yes
<b>Trustee (where a AIFM or Op exist)</b>	Yes	Yes	No	Yes

Asset responsibility	Arranges the supply of energy to the asset	Qualifies for ESOS in their own right	Include the asset as part of their own ESOS assessment	Include the asset as a separate ESOS compliance notification
<b>Trustee</b>	Yes	Yes	Yes	No

Trustees, operators, AIFMs and third-party undertakings which have a responsibility to undertake an ESOS assessment in relation to assets held in trust must participate separately in relation to the trust, themselves and any other trust for which they have ESOS responsibilities.

## 2.5 Private equity firms and private finance initiatives (PFI)

Private equity firms and their portfolio companies are treated in the same way as other undertakings. They will need to establish whether they are legally part of the same corporate group in accordance with Sections 2, 277 and 276, of the Companies Act 2014.

If having established the groupings the private equity firm is deemed the parent undertaking and at least one undertaking qualifies then the whole group would need to comply with ESOS. The parent could take responsibility for all the subsidiaries or could choose to disaggregate them if it chose to.

Undertakings involved in PFI arrangements will also have to determine whether they are legally part of any corporate group in accordance with the Companies Act 2014 or whether they are a standalone undertaking. If the undertaking qualifies or is part of a qualifying corporate group then they will need to participate in ESOS.

Having established whether an undertaking qualifies, the responsibility for energy supplies is determined in the normal manner. See section 4.1 onwards.

## 2.6 Disaggregation of undertakings from the highest Gibraltar parent group

Undertakings within a highest Gibraltar parent group can disaggregate from the rest of the group if they wish.

This allows them to participate in ESOS individually, or as smaller groupings.

When undertakings choose to disaggregate:

- individual undertakings participating on their own act as their own responsible undertaking

- undertakings participating as smaller groups must agree which one will act as the responsible undertaking.

To disaggregate, an undertaking must have an agreement in writing with the highest parent.

The agreement in writing should be made between individuals with management control of the undertakings involved (board directors or equivalent).

Disaggregation may help you manage ESOS participation, for example, if parts of your group operate separate energy management processes or company finances.

Disaggregation does not exempt subsidiaries from participating in ESOS. Each resulting participant, after disaggregation has been agreed, will need to fully comply on their own behalf including working out their total energy consumption and ensuring that at least 95% of their energy is covered by a compliance route.

The answers you provide to the questions in the ESOS notification will show your regulator that disaggregation has occurred.

Where there is no agreement in writing from both parties, the liability for compliance will rest with the organisation that has been determined as the responsible undertaking for the participant containing the highest Gibraltar parent in the group (either the highest Gibraltar parent itself or another agreed undertaking).

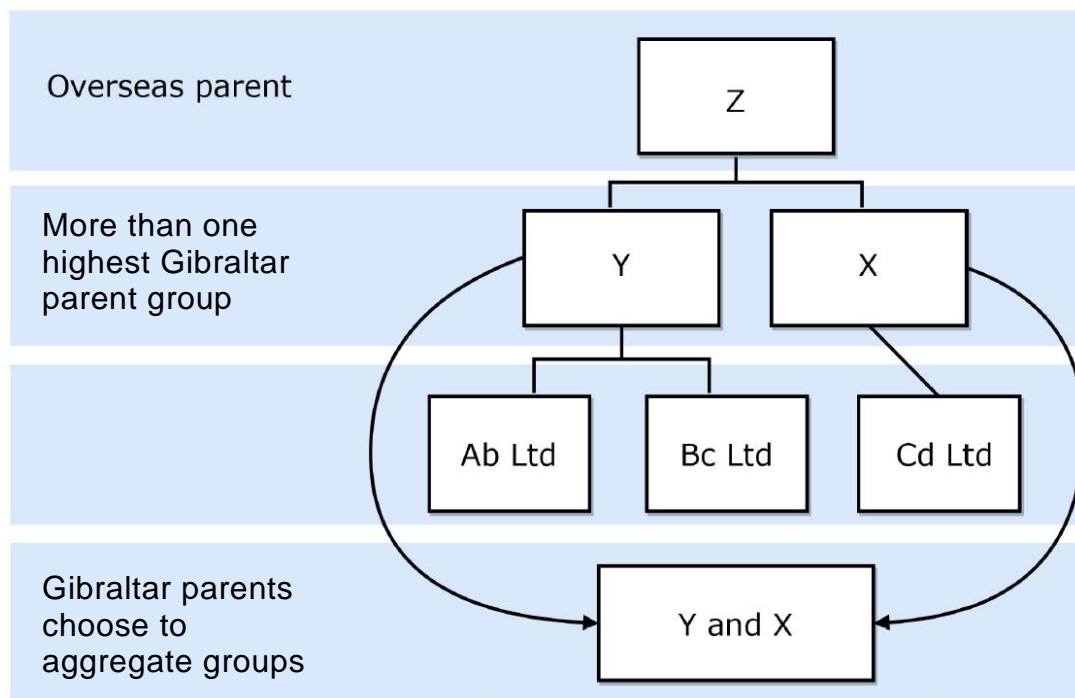
Where agreement in writing for the disaggregation for both parties can be evidenced and one party has not complied then liability for compliance will rest with the responsible undertaking of the participant that has not complied.

## 2.7 Aggregation of highest Gibraltar parent groups

If there's more than one highest Gibraltar parent in a corporate group, the highest Gibraltar parent groups can choose to aggregate if they want to comply as one participant. Aggregation between highest Gibraltar parents and their undertakings requires the mutual consent of the highest parents.

The aggregation of two or more highest Gibraltar parent groups does not prevent parts of any of those groups from disaggregating from the larger whole for the purposes of compliance – provided all the Gibraltar organisations in the overall corporate group comply.

The diagram illustrates aggregation.



Y and X are both highest Gibraltar parent groups. If they choose to aggregate one of the group members will take responsibility for the whole group of undertakings.

## 2.8 Changes to groups of undertakings

If one or more undertakings leave a qualifying group between the ESOS qualification date (31 December 2022 for the third compliance period) and the compliance date (extended to 5 June 2025 for the third compliance period) the undertakings must still comply with ESOS.

An undertaking can comply:

- with its previous group
- with its new group
- on its own, in the absence of a written agreement with the previous or new group

If a qualifying group purchases an undertaking (between the qualification date and the compliance date) from an organisation that did not qualify for ESOS then the energy supplies do not need to be included in your total energy consumption calculation and will not need to be audited or covered by an alternative route to compliance.

If a qualifying group sells an undertaking to an organisation that did not qualify for ESOS then the energy supplies of the purchaser do not need to be included in ESOS. Only the energy supplies of the undertaking that has been purchased will be subject to ESOS.

## 3. Deadlines

### 3.1 Compliance periods and compliance dates

Qualification is based on the status of your organisation on the relevant qualification date. If your organisation qualifies, you must participate in ESOS and notify compliance to the Department of Environment and Climate Change by the last date of each compliance period ('the compliance date').

In the third compliance period the compliance date has been extended to 5<sup>th</sup> June 2025. For the majority of ESOS purposes this is the compliance date for the third compliance period. The fourth compliance period continues to start on 6 December 2023

Please note that the dates of the third compliance period have not changed, only the associated compliance date, so references to the third compliance period in this document refer to the period from 6 December 2019 to 5 December 2023. The qualification date for the third compliance period also remains the same.

Compliance period	Qualification date	Compliance period	Compliance date
1	31 December 2014	From 17 July 2014 to 5 December 2015	5 December 2015
2	31 December 2018	From 6 December 2015 to 5 December 2019	5 December 2019
3	31 December 2022	From 6 December 2019 to 5 December 2023	5 June 2025
4	31 December 2026	From 6 December 2023 to 5 December 2027	5 December 2027

### 3.2 Changes to the compliance date for the third compliance period

For the majority of ESOS purposes, the compliance date for the third compliance period is extended to 5 June 2025. In particular this applies to:

- undertakings which leave a corporate group between the qualification date and the compliance date (section 2.8)
- excluding assets from your total energy consumption which you no longer own (section 4.3.1)
- the period for which data can be used for the energy audit (section 8.3)

- producing the ESOS report (section 10)
- submission of the compliance notification (section 11)
- publication of information (section 11.4)

For the requirements around alternative compliance routes (ISO 50001) the period during which ISO 50001 energy management systems can be certified is extended to 5 June 2025. For ISO 50001, the accreditation must remain valid either on the original compliance date of 5 December 2023, or the new compliance date of 5 June 2025, whichever the participant chooses.

For the requirement to maintain an evidence pack for two compliance periods following the compliance period it relates to, this has been extended for the evidence pack for the first compliance period, so that this must now be kept until 5 June 2025.

### 3.2.1 Requirements for which the date does not change

For the requirement to calculate total energy consumption, the reference period for which total energy consumption must be calculated has not changed, so that it must still include the qualification date of 31 December 2022 and end before 5 December 2023 (section 4.4).

For the requirement to report on energy savings since the previous compliance date (section 10.2.1), the dates will not change so that in both the third and fourth periods the energy savings are reported over a 4-year period and there is no period which is double counted in both compliance periods.

Changes to the compliance date for the third compliance period do not affect subsequent compliance periods or the deadlines by which action plans and progress updates must be submitted, or the dates covered by action plans.

## 3.3 Organisational status changes after the qualification date

If your status changes after the qualification date for a compliance period, this will not affect your eligibility for ESOS. You must still comply by the compliance date for the period if you qualified for the scheme on the qualification date.

For example, if you qualify for the third compliance period based on your organisational status on 31 December 2022 you must still comply by 5 June 2025 regardless of any changes to your size or structure.

Your status at the next qualification date, 31 December 2026, will determine whether you qualify for the fourth compliance period.

## 4. Steps for carrying out an ESOS assessment

All organisations that fall under the qualification requirements set out above are required to complete an ESOS assessment. This requires participants to:



- measure total energy consumption
- identify areas of significant energy consumption (if relevant)
- calculate your energy intensity ratios
- consider available routes to compliance
- ensure areas of significant energy consumption (or total energy consumption if you have not identified areas of significant energy consumption) are covered by a route to compliance
- appoint a lead assessor (unless you have zero energy, use less than 40,000 kWh of energy or have ISO 50001 energy management system which covers 100% of your total energy consumption – see section 7.2)
- carry out energy audits for any areas of significant energy consumption not covered by an alternative compliance route
- complete the ESOS report
- share the ESOS report, and any relevant documentation relating to alternative compliance routes, with group undertakings
- get one or more board level directors to review the findings of the assessment
- submit an ESOS compliance notification through the online notification system
- keep a record in your evidence pack of the ESOS compliance notification, a copy of your ESOS report and any other records of the assessment

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### **Changes for participants complying using ISO 50001**

In the first and second compliance periods, ESOS participants with an ISO 50001 energy management system certified by an accredited certification body and covering all of their energy supplies as included under ESOS (for the whole corporate group in Gibraltar) did not need to calculate a total energy consumption figure or carry out further steps other than board level director confirmation, and submission of a compliance notification.

In the third compliance period these participants must now calculate their total energy consumption in order to calculate the energy intensity ratio, which is a requirement for all participants from the third compliance period onwards. Section 4.6 provides information on using estimates if verifiable data is not available through the ISO 50001 energy management system for all parts of the organisation covered by ESOS. There are some further additional requirements in the third compliance period for participants whose ISO 50001 energy management system covers all of their energy supplies, which are set out in section 7.1 and section 10.1.

## **4.1 Measuring your total energy consumption**

You must calculate your total energy consumption during the reference period (see section 4.4). This must be calculated in a common unit, which can either be

an energy unit (such as kWh) or energy spend in pound sterling. Please note that CO2 is not an energy unit.

When considering which units to use for your total energy consumption calculation, you may wish to consider that the energy intensity ratio (see section 6) must be calculated in terms of kWh used over the reference period. You may still wish to calculate your total energy consumption in cost terms, for the purpose of identifying your areas of significant energy consumption (see section 5).

Your total energy consumption includes all input energy use, for example buildings, transport and industrial processes. All energy consumed in Gibraltar by a qualifying group must be included (regardless of whether the asset is held directly by an overseas undertaking within the qualifying group rather than a Gibraltar undertaking or Gibraltar establishment).

The purpose of this calculation is to help you identify what energy your assets or activities use, and which assets or activities you will subsequently need to ensure are covered by a route to compliance.

From the third compliance period you will need to provide your total energy consumption figure in your ESOS compliance notification alongside other information about your ESOS assessment. If you are audited by your regulator you may be required to provide the evidence used to determine it.

Having calculated your total energy consumption, you have the option to exclude up to 5% of your energy consumption from the requirement to carry out an ESOS audit (or alternative compliance route). See section 5 on calculating your significant energy consumption for further details on this.

## 4.2 How energy is defined

Under ESOS, energy is defined as all forms of energy products, including:

- combustible fuels
- heat (excluding your organisation's surplus heat from industrial processes)
- renewable energy
- electricity
- fuel used in transport

There are no fuel type exemptions in ESOS.

## 4.3 What energy supplies to include in your total energy consumption calculation

Energy that is both supplied to and consumed by an organisation is in the scope of ESOS.

For the purposes of calculating your total energy consumption you only need to consider input energy. Only include heat where you are importing the heat to your site or process. Where the heat is obtained by converting another source of energy such as gas into heat (on site) then exclude the heat produced to avoid double counting. However please note that all heat must be included in your audits and energy profiles.

‘Energy supplied’ means any energy that your organisation uses under an agreement with a supplier or third party. This includes energy that’s supplied to assets you hold or activities your organisation carries out, and includes buildings, installations, transport and construction activities. It also includes any energy your organisation generates itself, except capturing and consuming surplus heat from an industrial process.

Only energy consumed in Gibraltar, including British Gibraltar Territorial Waters, by a qualifying group needs to be included. Do not include energy which your organisation uses overseas unless it involves international travel in which case special rules can apply (see section 4.3.4).

#### 4.3.1 Assets you hold and activities you carry out

You only need to include energy consumption in relation to activities that you are carrying out and any assets that you held on the qualification date and still hold on the compliance date (which for the third compliance period is now 5 June 2025 for the purpose of including assets and activities). You may elect to exclude from the total energy consumption calculation energy consumed by any asset which is no longer held by you, or by any activity which is no longer carried out by you on the compliance date. Note that holding an asset does not mean you have to own the asset (for example you may be borrowing, using, renting or leasing the asset).

#### 4.3.2 Buildings

All energy use in buildings is included in ESOS.

In relation to multi-tenanted buildings and landlord-tenant relationships, under ESOS the responsibility to include energy within an organisation’s total energy consumption calculation is determined by whether the participant:

- is supplied with that energy, and
- consumes that energy by the assets it holds or by the activities it carries out

Where that participant supplies energy to another organisation and it is measured or can be reasonably estimated, that energy does not form part of their total energy consumption calculation.

The landlord and tenant should determine between themselves who is responsible for the energy based on the information above, bearing in mind that the organisation with the ability to control the energy use should:

- take responsibility for the energy supply
- audit it to identify energy saving opportunities

Keep copies in your evidence pack of any notes or emails to support what you exclude from your total energy consumption.

Where an ESOS participant moves from one building, or asset, to another during the period between the qualification date and the compliance date then they must include in their total energy consumption calculation, the energy used for the activities that are carried out in the original building and are being moved to the new building (such as use of computers, copiers, manufacturing processes and so on), where the energy is measured or can reasonably be estimated, but not energy uses associated with the buildings themselves (such as heating, ventilation air conditioning, lifts and so on).

You will need to include the energy used in the building if it is in your possession in your total energy consumption calculation even if the building is unoccupied on the qualification date.

Where an employee works from home, you do not need to include the energy used by them within their homes in your total energy consumption calculation.

#### 4.3.3 Installations, including combined heat and power plants (CHP)

Large installations generating or using energy are included in your total energy consumption calculation.

In a CHP or other power generation process, only the incoming fuel and mains electricity need to be included in the calculation of your total energy consumption for the purpose of ESOS. You do not need to include the heat created and used and electricity created in the calculation. You must audit these supplies if you choose to include the input fuel in your significant energy consumption, see section 5.

#### 4.3.4 Transport

Energy consumption from transport is included in ESOS.

You are only required to include transport where your organisation is supplied with the fuel for business purposes, not where you procure a transportation service that includes an indirect payment for the fuel consumption.

When calculating your energy consumption from transport activities, you may make reasonable estimations based on verifiable data (for example expenditure) in cases where you do not have actual usage data (for example litres). For instance, you could use the number of expensed kilometres multiplied by an average fuel consumption factor to estimate the usage.

Where estimates are used, the reason and method of estimation must be kept in your evidence pack.

Energy consumed for the purposes of transport means energy used by a road going vehicle, a vessel, an aircraft or a train:

- ‘aircraft’ means a self-propelled machine that can move through the air other than against the earth’s surface
- ‘road going vehicle’ means any vehicle in respect of which a vehicle licence is required under the Vehicle Excise and Registration Act 1994(1), or which is an exempt vehicle under that Act
- ‘train’ has the meaning given in section 83 of the Railways Act 1993(2)
- ‘vessel’ means any boat or ship which is self-propelled and operates in or under water

The energy consumption of a participant includes energy which is consumed for the purposes of transport by an aircraft or a vessel during the course of any journey which starts, ends, or both starts and ends within Gibraltar. For the purposes of ESOS, the definition of a ‘journey’ for both aircraft and sea vessels is the travel which takes place between the departure from one point, and arrival at the next point.

A participant may elect to include energy consumed:

- for the purposes of transport by an aircraft or a vessel, during the course of a journey which both starts, and ends, outside Gibraltar.
- outside Gibraltar for the purposes of transport by a road going vehicle or a train

In your calculation of your total energy consumption, include fuel used in:

- company cars on business use
- fleet vehicles which you operate on business
- personal or hire cars on business use
- private jets, fleet aircraft, trains, ships or drilling platforms which you operate

In your calculation of your total energy consumption, do not include fuel associated with:

- train travel of your employees where you do not operate the train
- flights your employees take where you do not operate the aircraft
- taxi journeys your employees take where you do not operate the taxi firm
- transportation of goods where you subcontract a firm or self-employed individual to undertake this work for you (this fuel will be included in the subcontractor’s total energy consumption calculation if they qualify)

#### 4.3.5 Construction activities

Assets which you hold on the qualification date and still hold on the compliance date (which for the third compliance period is extended to 5 June 2025 for the

purpose of including assets and activities) must be included in your total energy consumption calculation. Therefore, assets which you hold such as portable buildings and machinery (regardless of which site they are on) must still be included in the calculation of total energy consumption because that is still an asset of your organisation on the compliance date.

Items that do not need to be included in the calculation of total energy consumption include show homes or office buildings under construction where you use grid electricity in the building during the construction of it but which you will no longer have responsibility for on the compliance date. However, if you are using generators on sites then you must include the input fuels in your total energy consumption if you hold them on the qualification date and the compliance date.

The nature of the construction sector is such that the approach to energy audits needs to be done in a way which is going to lead to the most benefit to the participant in terms of identification of energy saving opportunities. This may mean that it is more relevant to look at the overall activities you undertake (rather than target specific sites because construction sites are temporary and energy consumption is directly related to the stage of construction) and identify policies and opportunities that if applied across the whole of your business would lead to energy efficiency savings. Hence for a range of construction activities such as excavation, site cabin use, on-site generators and so on, where the energy is your responsibility, it will need to be audited and where practicable you should identify cost effective opportunities for energy savings.

You should ensure that you record in your evidence pack your rationale for your ESOS assessment methodology.

#### 4.3.6 Energy that is not in scope

The following types of energy are not in scope of ESOS:

- unconsumed energy that your organisation does not use, and supplies to a third party
- energy consumed outside the Gibraltar
- energy consumed for international travel or shipping where the journey does not start or end in the Gibraltar (unless the organisation wishes to include their international travel)

You can deduct unconsumed supplies from your total energy consumption provided:

- the supply is measured (for example with metering),
- the supply can be calculated based on verifiable data, or
- it can be reasonably estimated

Where a reasonable estimate is made, you must keep the details of the assumptions and methodology in your evidence pack.

## 4.4 Reference period

You must calculate your total energy consumption over a reference period of 12 consecutive months.

The reference period must include the qualification date and end before the compliance date. If you can't use data for a full 12 months, then you should use as close to 12 months as is reasonably practicable and explain why in your evidence pack.

The reference period should be the same 12-month period for all energy supplies. If you do not have data for part of your reference period, you can use estimates to fill in any gaps.

## 4.5 Using verifiable data

When calculating your total energy consumption, you must use verifiable data where reasonably practicable.

Verifiable data is data you can prove, for example:

- an invoice or delivery note
- meter reading records and schedules for electricity or natural gas
- stock records and readings for stored liquid, solid fuels and waste
- automatic meter reading or smart and half hourly meter data outputs, for electricity and natural gas

If you cannot obtain verifiable data for energy consumption or spend you must:

- explain why in your evidence pack
- use a reasonable estimate derived through calculation (based on other verifiable data, if possible), and show how you got this figure
- keep records in your evidence pack

ESOS participants may also be part of other energy management or energy/emissions reporting schemes, like:

- the EU Emissions Trading Scheme (EU ETS)
- voluntary greenhouse gas (GHG) reporting for Gibraltar companies.

Please note that simply being part of these other schemes does not automatically count as ESOS compliance for the energy covered by those regimes. You can use energy data you collect as part of your compliance with these schemes to calculate your total energy consumption for your ESOS assessment but you are likely to have to do additional work to ensure you are also compliant with ESOS.

The scope of energy you must include in your total energy consumption under ESOS is broader than what's covered by these mandatory and voluntary



schemes. This means that it's unlikely you'll be able to calculate your total energy consumption based on what data you collect for these schemes alone.

## 4.6 How to estimate

If you cannot get verifiable data, you can fill in the gaps by estimating data. To do this, you could use:

- direct comparison
- pro-rata extrapolation
- benchmarking

Direct comparison means using figures from another comparable time period to fill the gap, (for example the same day, week or month in another year).

Pro-rata extrapolation means using figures you have for one period of time to get average consumption figures for a shorter period.

For example, you could use the average daily rate of energy consumption for 1 March 2023 to 25 March 2023 to estimate the energy used between 26 and 30 March 2023.

Benchmarking means using the energy consumption of one asset or activity as a proxy to estimate the consumption of another asset. For example, you could use the annual energy consumption of one retail outlet to estimate how much energy another retail outlet uses, particularly if they were similar size, age, or build.

If you use any estimates for the purpose of complying with ESOS you must record details of the calculation method in your evidence pack and record the percentage of your total energy consumption estimated in your compliance notification.

## 4.7 Zero energy supplies

If you have zero energy supplies during a compliance period (for example, you exceed the financial thresholds to participate in the scheme but have no physical assets or employees using energy) then you do not need to carry out any further stages of the ESOS assessment for that compliance period.

However, you must:

- get a board level director to confirm that although your organisation qualifies for the scheme, they agree that it has no energy responsibility (section 11)
- submit a compliance notification to the Department of the Environment and Climate Change to specify that this is the case (section 11)
- keep records in your evidence pack that you have no energy consumption and keep records of your compliance notification data (section 14)



You do not need to appoint a lead assessor to complete the compliance notification. You do not need to complete an action plan or annual progress updates.

## 5. Identifying areas of significant energy consumption

After you've calculated your total energy consumption, you must identify assets and activities that amount to at least 95% of your total energy consumption.

These are your areas of significant energy consumption and comprise the assets and activities you will audit or ensure are covered by an alternative route to compliance. The energy used by these assets and activities is termed your significant energy consumption.

### **Changes for the third compliance period**

In the first and second compliance period, ESOS participants were able to exclude up to 10% of their energy supplies and report on 90%. In the third compliance period this has been changed to up to 5% exclusion and at least 95% of total energy consumption must be included.

This means you can exclude up to 5% of your total energy consumption from any audit or alternative compliance measures.

This up to 5% is your 'de minimis energy consumption'.

You can classify whichever activities you choose as de minimis energy consumption. It is suggested that you include the energy consumption from all of your large undertakings in your areas of significant energy consumption.

This means you can exclude energy on:

- a group basis – for example excluding the consumption of a one or more undertakings
- a site basis – for example excluding the consumption of a particular site or number of sites
- an asset or activity basis – for example excluding the consumption of an asset or activity, or a defined list of assets or activities
- a fuel basis – for example excluding consumption associated with the use of a particular fuel or fuels

You could also exclude energy using a combination of the above.

If you do not choose to identify your areas of significant energy consumption and exclude de minimis energy consumption then you must audit your total energy consumption or cover it under another route to compliance.

Supplies which were not required to be included in the total energy consumption calculation (in accordance with the rules set out in section 4.3) are excluded from all future calculations. As a result these supplies would not have to be included in your significant energy consumption, would not need to be covered by a route to compliance or included in the de minimis energy consumption.

You must keep records in your evidence pack detailing the energy uses that you have chosen to exclude and include details of your total and significant energy consumption in the compliance notification you submit.

You will need to also exclude data relating to these supplies from your Energy Intensity Ratio (see section 6.5).

## 6. Calculating energy intensity ratios

You must calculate an energy intensity ratio for each of the following areas (termed ‘organisational purposes’) except where you have used no energy for that purpose during the reference period:

- buildings
- transport
- industrial processes
- other energy uses outside the above three categories

An energy intensity ratio is a measurement which relates an organisation’s energy consumption to an appropriate indicator of activity by the organisation, in a way that allows comparison of energy efficiency performance over time, and against similar organisations. For example, for buildings a larger building will tend to use more energy than a small one, so comparing the energy consumption per unit of floor area between two buildings provides a better comparison of energy efficiency than comparing their total energy consumption.

The purpose of requiring an energy intensity ratio is primarily to allow participants to compare their own performance from one ESOS compliance period to the next. For this reason, the data submitted for the third compliance period will act as a baseline for future comparison. Participants may choose to calculate an energy intensity ratio for the first and/or second compliance periods and include this in their ESOS report if data is available, but you will not be required to include this in the compliance notification.

In order to calculate your energy intensity ratios you must:

- calculate your total energy consumption and significant energy consumption, where applicable, in kWh (if you have not already calculated it in kWh)
- identify which proportions of the significant energy consumption (or total energy consumption) relate to buildings, transport, industrial processes and other energy uses

- calculate a ratio for each which is based on each of these subtotals and a factor which measures operational activity for each of these organisational purposes (see section 6.5 for more details)

## 6.1 Calculating your total and significant energy consumption in kWh

Where you have chosen to calculate your total energy consumption and significant energy consumption in kWh units (or multiples of kWh, for example MWh, GWh), no further work is needed here other than to report the kWh figure as part of your compliance notification.

Where you have chosen to calculate your total energy consumption and significant energy consumption in energy units other than kWh you must convert your total energy consumption and your significant energy consumption (where you have chosen to identify areas of significant energy consumption) into kWh.

If you have used energy cost data to calculate your total energy consumption and significant energy consumption, you have the option of either calculating a kWh figure for total energy consumption and significant energy consumption for the same reference period based on verifiable data, or using an estimation method, which could be:

- using whatever verifiable data is available to cover your total and significant energy consumption in kWh - use the same estimation methods as set out in section 4.6 for estimating total energy consumption for any assets or activities where you do not have verifiable data covering the reference period
- estimating your total and significant energy consumption in kWh during the reference period based on the data in energy units that you calculated for the purpose of the energy audits carried out under ESOS (or any alternative compliance route) by applying an appropriate estimation method to account for the fact that the figure used for the energy audit covers a different time period to the reference period

Under the circumstances that neither of the above methods can be used, you may use an estimation method to calculate the kWh figure for some energy supplies directly from the cost data you used for your total and significant energy consumption, but you will be required to justify this in your evidence pack.

You must include in your evidence pack details of any estimation method you used to calculate the figures in kWh and the reasons why this estimate was used.

You must include in your compliance notification your total and significant energy consumption in kWh and whether you used an estimation method to calculate these.

## 6.2 Calculating energy subtotals for buildings, transport, industrial processes and other energy uses

You must identify based on verifiable data the proportion of both your total energy consumption and significant energy consumption (where you have chosen to identify areas of significant energy consumption) that relates to each of the following organisational purposes:

- buildings transport
- industrial processes
- other energy uses outside the above categories

‘Other energy uses’ includes any energy used by the organisation that is not covered under buildings, transport or industrial processes, and could include but is not limited to:

- oil rigs construction sites
- lighting or street furniture (such as parking meters) that makes up a site, but is not attached to the buildings
- diesel fuelled generators for uses other than buildings

Where verifiable data is not available, you must estimate the proportion of your total energy consumption and significant energy consumption (where applicable) that links to each organisational purpose (see section 6.3).

You must include in your compliance notification the breakdown of both total energy consumption and significant energy consumption for each organisational purpose in kWh. When added together, all of your subtotals must equal your total energy consumption or significant energy consumption in kWh as applicable.

## 6.3 Using estimates when calculating energy subtotals

Where verifiable data is not available to identify the division of total and significant energy consumption into different organisational purposes, you must use an estimation method.

This may be for example where a metered supply is used for more than one purpose and there is no submetering in place, or where a bulk fuel is purchased for more than one purpose.

You must keep a record within the evidence pack of the methodology used and the reason for using an estimate.

## Worked example

Company A has no industrial processes, so only needs to calculate the energy consumption for transport and buildings. They have one electricity supply which covers both purposes, as the same electricity supply covers a building and electric vehicle chargers outside the building and there is no submetering.

Company A estimates consumption for the electric vehicle chargers based on a separately metered supply for similar chargers elsewhere. They then subtract this transport estimate from the total electricity consumption from the metered supply to determine the consumption for the building.

Company A keeps records of the estimate calculations and the reasons why this estimate was used in their evidence pack. They report these energy subtotals in kWh by organisational purpose in their compliance notification.

## 6.4 Which energy intensity ratios to calculate

You must calculate a separate energy intensity ratio for each of the following:

- buildings
- transport
- industrial processes
- any other energy uses

Where your organisation does not use energy for one of these purposes you do not need to calculate a ratio for that purpose or report it in your compliance notification.

The method you should use for calculating your transport energy intensity ratio depends on whether transport is used for passenger or freight transport. This is because the energy consumed by freight transport is predominantly dependent on the mass of the freight being transported (for example a container ship will use more energy than a lorry, but is able to transport a much greater mass of freight), whereas the energy consumed by passenger transport is related to the number of people being transported (for example a bus will use more energy than a car). Simply calculating energy consumption per kilometre travelled is not appropriate, because the energy consumption is dependent on the mass that is being transported, for which the number of passengers is a proxy.

If you have both passenger and freight transport, you should calculate separate ratios for each, or you may calculate a single ratio, in which case you should use the methodology for freight and estimate the mass of passengers transported for each journey. If you do not have verifiable data for the split of energy consumption between freight and passenger transport you may need to estimate this using similar methods to those set out in section 6.3.

Where your organisation uses energy for a purpose other than buildings, transport or industrial processes, you can either provide an energy intensity

ratio for each of those other uses, or a single indicator covering all other uses, whichever is most appropriate.

You may calculate additional ratios in addition to the required ratio, if you believe that the required ratios do not adequately represent your organisation. You may also choose to calculate sub-ratios for any ratio you have calculated. This could help you to compare your energy consumption relating to different business activities and assess their energy efficiency performance and can also allow you to compare data between years on a more granular basis.

For example, if your organisation is a hotel chain which includes energy use in hotels and office buildings, you could opt to provide separate energy intensity ratios for hotel energy use and office energy use. Or you may have only office buildings but decide to calculate additional separate energy intensity ratios for electricity, gas and heating oil energy consumption.

Any additional ratios are voluntary, but if you choose to calculate and report a ratio in one compliance period you should be prepared to report against the same ratio in all subsequent compliance periods or explain why you have not done this.

## 6.5 How to calculate energy intensity ratios

The energy intensity ratio is a metric which relates the energy consumption you have calculated for each organisational purpose in section 6.2 to an appropriate indicator of activity for each organisational purpose. The energy intensity ratio is calculated as follows:

$$\text{Energy intensity ratio} = \text{energy consumption in kWh for the organisational purpose} \div \text{indicator of activity for the organisational purpose}$$

The relevant indicators are summarised below. For full details see sections 6.5.1 to 6.5.4.

Organisational purpose	Indicator
<b>Buildings</b>	Floor area
<b>Transport</b>	Person kilometre travelled (for passenger transport) or tonne kilometre travelled (for freight transport)
<b>Industrial processes</b>	Unit of industrial output
<b>Other</b>	A quantifiable output of the organisational activity

Where possible you should use verifiable data for the indicators in the table above. Where verifiable data is not available, you can use an estimation method to estimate the indicator. See sections 6.5 and 6.6 for information on what is considered verifiable data and how to estimate data where verifiable data is not available.

The appropriate indicator of activity must be calculated for the reference period and should use the same reference period as your significant energy consumption. For example if the reference period you have used for your significant energy consumption is 1 Jan 2022 to 31 Dec 2022 you should use the floor area for the buildings which used energy during this period, the industrial output during this period and so on, as these factors can change over different time periods.

Where you have excluded an asset or activity as de minimis from your areas of significant energy consumption, you should not include the indicator of organisational activity for that excluded asset or activity within the total calculated. For example, if you have five buildings A-E and you excluded building A as part of your de minimis so that you did not include energy consumption from building A as part of your significant energy consumption, then you should not include the floor area of building A in the total floor area you calculate for the energy intensity ratio. This is to ensure that you are comparing like with like.

You should also not include assets or activities where you did not include the energy consumption for that asset or activity in your total energy consumption under the rules set out in section 4.3.6 or where there was no energy consumption, for example an empty building which used no energy during the reference period.

If you have an asset or activity where only some of the energy consumption is included in your total energy consumption and some is not, then you should only include data for the relevant indicator which relates to the energy consumption that is included. For example, if you have a building where tenant energy use is sub-metered and recharged and only the energy paid for by the landlord in communal areas is included in your total energy consumption, you would need to calculate or estimate (see section 6.6) the floor area for the parts of the building covered by the landlord supplies. You should keep records in your evidence pack in relation to any exclusions from the calculation of the relevant indicator.

### 6.5.1 Energy intensity ratio for buildings

The energy intensity ratio for buildings should be calculated as:

$$\text{Energy intensity ratio} = \text{building energy consumption in kWh} \div \text{total useful floor area in m}^2 \text{ for buildings using energy}$$



The total useful floor area should be the Gross Internal Area (GIA), measured in accordance with guidance published by the Royal Institution of Chartered Surveyors.

Sources of verifiable data could be:

- Energy Performance Certificates (EPCs)
- valuation office data on floor areas
- any other survey or report which clearly states the Gross Internal Area as measured in accordance with the guidance issued by the Royal Institution of Chartered Surveyors (RICS)

You should note that the floor area figure for some of these sources may exclude parts of the buildings which are neither heated nor cooled, whereas others may include these areas. You do not need to exclude parts of the building which are neither heated nor cooled from the floor area you calculate, but you may do so. You should make clear in your evidence pack which approach you have used. You should also note that some EPCs may cover only part of a building, such as an internal building unit, so you should check which part of a building an EPC covers if this is unclear.

You must keep records in your evidence pack of any estimates used for calculating the energy intensity ratio.

#### 6.5.2 Energy intensity ratio for transport

The energy intensity ratio for passenger transport should be calculated as:

Energy intensity ratio = transport energy consumption in kWh ÷ sum across all journeys of (kilometres travelled for each journey multiplied by loading indicator for each journey)

For the calculation to be meaningful, you must calculate for each journey the kilometres travelled multiplied by the loading indicator, and then add up each of those figures to produce a total. Calculating the sum of the kilometres travelled and a sum of the loading indicators and multiplying these two results does not produce the same figure.

Whatever loading factor you use, you must use the same one for each journey within the calculation or the calculation will not produce a meaningful indicator.

The loading indicator used for each freight transport journey should be the mass of the freight being transported for that journey, in tonnes. The number of kilometres travelled for a journey multiplied by the mass in tonnes that is transported for that journey is termed the ‘tonne kilometres’ for that journey.

The loading indicator used for each passenger transport journey should be the number of people being transported for that journey. The number of kilometres travelled for a journey multiplied by the number of passengers that are transported for that journey is termed the ‘person kilometres’ for that journey.



You may choose to calculate separate freight and passenger transport ratios with separate loading indicators, or you may choose to calculate a single ratio covering both, for which you must choose a single loading indicator. Using tonnes and estimating the mass of passengers is likely to be the most appropriate approach in the case of a combined ratio for both freight and transport.

If you have transport that is not easily classed as freight or passenger transport, for example a forklift, you could choose to use an estimated average payload and include this as freight, or you could choose to include this with passenger transport and use the number of passengers as one.

In all cases you should make clear in your evidence pack what approach you have used and the reasons for this, along with details of any estimates you have made. When entering data for the compliance notification you will need to make clear what approach you have used.

Verifiable data for kilometres travelled could be:

- MOT records, which include kilometres travelled readings
- outputs of any vehicle telematic system or recording system which accurately records kilometres travelled
- records of manual odometer readings

Employee kilometres travelled claims are not verifiable data unless the method of reporting includes submissions from odometer readings. Kilometres travelled claims without readings can be used as an estimate.

Most organisations are unlikely to have accurate information on occupancy for individual journeys, in which case you can use an average occupancy to estimate occupancy for each journey, but if an average is used this does not count as verifiable data.

Verifiable data for freight tonnage could be outputs of any fleet management system which records tonnage per journey.

Average payload estimates are not verifiable data.

You must keep records in your evidence pack of any estimates used for calculating the energy intensity ratio.

### **Worked example – passenger transport**

Company A is a long-distance coach company and has detailed records for each coach journey of how many passengers there were, as these were booked in advance, and they also record the kilometres travelled for each route. For each journey, they multiply the number of passengers by the distance of the journey to calculate the person kilometres for each coach and add these together to get the total person kilometres travelled. They report a single passenger energy intensity ratio.

Company B is a local bus company. For their buses they know the distance of each bus route, but do not record kilometres travelled. They also do not have verifiable data on the number of passengers for each journey. They estimate the kilometres travelled based on the length of each bus route and calculate an estimate of the average number of passengers for each bus route. They multiply the average passengers for each route by the length of each route and then add the estimated person kilometres for each route together to get the total person kilometres.

They report a single passenger energy intensity ratio and keep records of all estimates in the evidence pack.

### **Worked example – freight transport**

Company C is a logistics company and has 10 HGVs and one van which they use for some short distance goods transport. Company C keeps detailed records of each HGV journey which includes the mass of freight transported for each journey and the distance of each journey. This allows them to interrogate their fleet database to calculate the individual tonne kilometres for each of the journeys each HGV takes during the reference period and add these together to calculate the total tonne kilometres travelled by the fleet during the period. They have kilometres travelled records for the van, but do not have information on what was transported. They therefore estimate an average freight tonnage for the van and multiply this by the total kilometres, and keep records of this estimation in their evidence pack. They report a single freight energy intensity ratio.

### **Worked example – mixed transport**

Company D is a local delivery company and they have a fleet of twenty vans and also have two forklifts and one fleet car. Company D decides to calculate its energy intensity ratio using tonne kilometres. They have records of what was transported for each van journey from which they can estimate the mass transported and they record kilometres travelled for each van. They do not record kilometres travelled for the fleet car, so they estimate kilometres travelled over the reference period based on MOT records. They do not record kilometres travelled for the forklifts so estimate kilometres travelled based on the size of their warehouse, average speed and average hours of operation. They estimate the average mass transported by the forklifts based on other operational data. They assume an average occupancy of one for the fleet car and use an estimate for the average weight of a person for the mass transported. They report a single freight energy intensity ratio to cover all their transport and keep records in their evidence pack of all estimates made. They voluntarily report a separate freight energy intensity ratio which covers only their vans, as they consider this to be the most important part of their operation.

### **6.5.3 Energy intensity ratio for industrial processes**

The energy intensity ratio for industrial processes should be calculated as:

$$\text{Energy intensity ratio} = \text{building energy consumption in kWh} \div \text{total industrial output for processes using energy}$$

Industrial output may be expressed in terms of mass in tonnes, volume in litres or individual production units (such as cars, fridges and so on). Where you have processes with output measured in more than one type of units, you should convert the outputs to be in the same unit so that you can report one overall ratio.

A different approach will need to be taken if you have a number of industrial facilities in your corporate group where the output of one facility is the input of another facility. In this case you need to ensure that you are not double counting, so that only the final output from the chain of processes is used for the energy intensity ratio.

Verifiable data could be:

- any automated system that records output from a process (this should be stated in the evidence pack)
- any manual system of recording output from a process as long as accurate and detailed records are kept (this should be stated in the evidence pack)

You must keep records in your evidence pack of any estimates used for calculating the energy intensity ratio.

### **Worked examples – differentiated industrial products**

Company A produces honey and beeswax. They measure their beeswax output in tonnes and their honey output in litres. They convert their measured honey output into tonnes based on the verifiable data they hold on the mass of a litre of honey. They calculate their energy intensity ratio in kWh/tonne.

Company B prints books and sells printing ink. They measure their printing output in hundreds of pages printed and their ink output in litres. They convert both their printing and ink outputs into tonnes and report an energy intensity ratio in kWh/tonne. This requires them to estimate the average weight of a hundred pages of text. They voluntarily report additional separate energy intensity ratio figures for printing in kWh/hundreds of pages printed and ink in kWh/litre of ink produced and keep records in their evidence pack of the estimate.

### **Worked example – industrial product chain**

Participant C is a corporate group that makes beer, where Company X makes beer and measures their production in litres, and Company Y prints labels and bottles up the beer for distribution and measures their production by the number of crates of beer produced.

If participant C calculated both the beer production from Company X and the volume of beer packed into crates from Company Y in tonnes and added them up

to create a total output figure they would be double-counting the tonnes of beer in their total output.

Participant C therefore only uses the number of crates of beer produced as their indicator of industrial output but includes the energy use from both Company X and Company Y.

#### 6.5.4 Energy intensity ratio for other energy uses

There may be cases where you have energy uses that do not fall under the main organisational purposes (buildings, passenger transport, freight transport and industrial processes).

In these cases, you should consider a reasonable measurement to compare energy consumption against the level of service/output.

If you provide an energy intensity ratio in the category of ‘other’, you should record details of the quantifiable output used to calculate the energy intensity ratio, and the reason why this output was relevant.

You must keep records in your evidence pack of any estimates used for calculating the energy intensity ratio.

#### Worked example

Company A has a large proportion of its energy consumption offshore in the extraction and export of hydrocarbons.

$$\text{Energy intensity ratio} = \text{energy consumption from offshore hydrocarbon extraction and export in kWh} \div \text{barrels of oil equivalent}$$

Company A considers that the main factor which determines how much energy they use in these operations is the volume of exported hydrocarbons. They therefore use as their energy intensity ratio kWh/barrels of oil equivalent exported.

They divide the energy consumption for offshore extraction and export of hydrocarbons (excluding energy consumption that would be categorised as for buildings, transport or industrial processes, for example energy used by marine vessels) by the volume of exported hydrocarbons, which includes by pipeline or tanker offloading, in barrels of oil equivalent for the reference period, to calculate their energy intensity ratio.

Company A would separately report their energy consumption from oil refineries as industrial processes and energy consumption from any marine vessels such as mobile offshore drilling units as part of their offshore operations as freight or passenger transport, as appropriate (see section 6.5.2).

A similar approach could be used for onshore compressor stations for onwards transmission of hydrocarbons, to use the volume of hydrocarbons that goes through the stations as the indicator of activity.

## 6.6 Estimates for indicator of organisational purpose

When estimating the indicator of organisational activity that you use for calculating the energy intensity ratio, you should use verifiable data where possible to calculate your total useful floor area, transport kilometres travelled and industrial output.

If verifiable data is not available, you should use an estimation method to estimate the indicator and keep a record in your evidence pack of the reason for using the estimation method. Some possible methods include:

- direct comparison
- pro-rata extrapolation
- benchmarking

These are similar to the methods used in section 4.6 for estimating energy consumption where verifiable data is not available.

You must keep records in your evidence pack of the calculation method for any estimates you used.

### **Worked example – Direct comparison**

This is where you use partial data to estimate complete data.

Example: Company J does not have verifiable data for the whole floor area of Building J, so uses the verifiable floor area they have for one floor of Building J, and use this information to estimate the other floors of the building.

### **Worked example – Pro rata extrapolation**

This is where you have figures for a period of time, and use this information to estimate data for a different period of time.

Example: Company K does not have access to verifiable data on industrial output from process K for the first three months of the reference period, so they use figures for months 4-9 to estimate the first three months of the reference period.

### **Worked example – Benchmarking**

This is where you use data from one asset as an estimate for the data for another asset.

Example: Company L does not have verifiable floor area data for retail outlet M, but does have verifiable data for retail outlet N, which is a similar size and build. They use the floor area for retail outlet M as a benchmark to estimate the floor area for retail outlet N.

## 7. Considering available routes to compliance and appointing a lead assessor

You must choose one or more routes to compliance that cover all your areas of significant energy consumption (or total energy consumption, where you have chosen not to identify areas of significant consumption) (see section 5).

You can demonstrate that you've made a compliant ESOS assessment using:

- ISO 50001 certification which covers all of your energy supplies (section 7.1)
- one or more ESOS compliant energy audits (section 8)

If you choose to comply with ESOS using an existing certification or assessment, it must have been issued after 5 December 2019 and be valid either at the original compliance date (5 December 2023) or the extended compliance date (5 June 2025) for the third compliance period, as you choose.

Previous audit work, for instance performed as part of other energy audit schemes, can be used towards compliance for ESOS provided it:

- was conducted within the compliance period, and
- meets the minimum requirements of an ESOS energy audit (see section 8.2), and
- was not used for compliance in the previous compliance period

You must set out how your areas of significant energy consumption (or total energy consumption) are covered by your compliance routes in your ESOS report (see section 10) and keep records in your ESOS evidence pack.

### 7.1 ISO 50001 certification covering all your energy supplies

If you have an ISO 50001 energy management system that's certified by an accredited certification body and covers all your energy supplies as included under ESOS (for the whole corporate group in Gibraltar), this counts as your ESOS audit and you only need to carry out limited additional actions. If only some of your energy supplies are covered by ISO 50001 you need to carry out further steps as set out in this guidance to ensure you comply fully with ESOS.

To be compliant:

- the energy management system must have been certified by a relevant body during the compliance period (for the third compliance period, the management system can have been certified any time after 5 December 2019)

- the certification must remain valid at either the original compliance date of 5 December 2023 or the extended compliance date of 5 June 2025 for the third compliance period, as the participant chooses
- the energy management system must cover all of the assets held and activities carried out by your organisation as at the qualification date

If you are using ISO 50001 as your route to compliance then the energy management system must be certified by one of the following:

- a United Kingdom Accreditation Service (UKAS) accredited certification body
- a body accredited by an EU member state's national accreditation body
- a body accredited by a body which is a member of the International Accreditation Forum

If you take on new assets, undertakings, or activities in the compliance period and your ISO certification covers your entire organisation or group, then these changes will not prompt a requirement for recertification for continuing compliance with ESOS, provided the newly acquired assets, undertakings or activities are within the scope of the certification.

If you are compliant through this route you would not require a lead assessor to comply with ESOS. However you must still:

- calculate your total energy consumption (section 4) and energy intensity ratios (section 6)
- calculate your energy savings since the previous ESOS compliance date, complete an ESOS report and share information about your ESOS compliance with other group undertakings (section 10)
- get a board level director to confirm that they have reviewed findings of your ISO 50001 certification, the organisation is compliant and the information which is going to be entered in the compliance notification is correct
- submit a compliance notification to the Department of the Environment and Climate Change (section 11) which specifies that this is how you are compliant with ESOS
- following the compliance notification, complete an action plan and subsequent progress updates (see sections 12 and 13)
- keep some evidence in an evidence pack, which could be included within your energy management system records, relating to your compliance with ESOS, including a record of your compliance notification (see section 14)



## 7.2 Appointing a lead assessor

You must appoint a lead assessor to check that your assessment meets ESOS requirements unless 100% of your energy supplies are covered by ISO 50001 certification, your total energy consumption is less than 40,000 kWh, or you have zero energy responsibility under the ESOS rules (section 4.7).

You must record details of your lead assessor in your ESOS report (see section 10) and provide details when notifying the Department of the Environment that you comply with ESOS.

You must also record details of personnel who carry out a significant proportion of the ESOS assessment in your ESOS report and compliance notification (see section 10 for further details of this requirement).

### 7.2.1 Low energy users using less than 40,000 kWh

If your organisation has a total energy consumption of less than 40,000 kWh you will be required to carry out an ESOS assessment, which may use any of the routes described above. However, you will not be required to have a lead assessor review your ESOS assessment. If you decide not to appoint a lead assessor to review your ESOS assessment because you use less than 40,000 kWh, you must get two board level directors (or equivalent) to review your ESOS assessment and compliance notification (see section 11.2).

## 7.3 What lead assessors do

Your lead assessor can either:

- carry out your ESOS assessment and audits themselves
- check that the assessment and audits done by people who are not lead assessors meet the requirements

Their role in the ESOS audits could involve undertaking, advising on, or reviewing the following activities:

- determining energy use profiles
- calculating energy or cost savings of measures identified – life-cycle cost analysis (LCCA) or another method such as simple payback period (SPP)
- identifying energy saving opportunities presenting audit recommendations
- developing a process for how new audits should be done
- developing a sampling approach
- developing an audit timetable
- determining the number of site visits required
- pulling together data for the ESOS evidence pack – this is an information pack that shows how you carried out the assessment and audit



Alternatively, other individuals can undertake these activities and the lead assessor can review them.

At a minimum, your lead assessor must review your ESOS assessment to consider whether it meets the requirements of the scheme.

This will involve:

- reviewing the calculation of total energy consumption
- reviewing the determination of the assets and activities in your areas of significant energy consumption (at least 95% of the total energy consumption during the reference period)
- reviewing the calculation of energy subtotals for different organisational purposes and energy intensity ratios
- confirming that any audits undertaken meet the minimum criteria for ESOS
- confirming that the necessary certifications and evidence exist for any alternative routes to compliance
- reviewing the ESOS report

You're still solely responsible for:

- compliance with ESOS (your lead assessor will not be held responsible for compliance by the regulators)
- appointing a lead assessor
- highlighting any audit work that's already been done and which you wish to have reviewed by a lead assessor for the purposes of ESOS compliance
- agreeing the work that the lead assessor is undertaking
- sharing the ESOS report and any other supporting information with other group undertakings
- getting board level directors (or equivalent senior managers) to sign off that they have reviewed the audit findings or recommendations
- ensuring that an accurate compliance notification is submitted
- maintaining records of your ESOS compliance for two subsequent compliance periods

On this basis you should ensure that someone from the organisation understands the ESOS requirements and works together with the lead assessor to agree the approach your organisation is taking to its ESOS compliance.

Overall the lead assessor will need to review your assessment and consider whether it meets the requirements of the scheme regardless of the level of their involvement in the work undertaken for the ESOS assessment.

If your lead assessor reviews your ESOS assessment and does not believe that your organisation is compliant, you may still choose to submit your notification.

In this case you should confirm that the assessment has been reviewed by a lead assessor and indicate that they do not believe you are compliant and why. Organisations that do not carry out a compliant audit where required will be in breach of the 2024 amended ESOS Regulations and liable to potential enforcement action.

## 7.4 Finding a lead assessor

Your lead assessor must be a member of an approved ESOS lead assessor register. You can find a lead assessor on the approved register on the ESOS webpage at <https://www.gibraltar.gov.gi/environment/energy/energy-saving-opportunity-scheme>

On the webpage of the approved registers there will be information on how to apply to be a lead assessor and lists of contact details and specialisms for approved lead assessors who are willing to act as lead assessors for third parties.

A lead assessor can be an employee of your business ("in-house") or a third party.

If you hire a lead assessor from outside your business, the overall ESOS Assessment, recommendations of any audit or alternative routes to compliance must be checked and signed off by one director.

If your lead assessor works for your business, the overall ESOS Assessment, recommendations of any audit or alternative routes to compliance must be checked and signed off by two directors.

When deciding which lead assessor to use, you may want to consider if they:

- have energy auditing experience in the right sector.
- are familiar with technology and processes in your industry.
- have experience of auditing against particular standards (e.g. ISO standards).

It is your responsibility to choose an individual with appropriate skills for your business.

## 8. Carrying out an ESOS energy audit

### 8.1 Auditing areas of significant energy consumption

You must audit your areas of significant energy consumption (or total energy consumption, where you have chosen not to identify areas of significant energy consumption) which are not covered by one of the alternative routes to compliance.

You can do this specifically to comply with ESOS, or you can use previously undertaken energy audits to contribute to ESOS compliance provided they were not used in the previous compliance period. You can use more than one energy audit to cover your areas of significant consumption and these may cover different time periods.

Any audits you use must meet the minimum energy audit requirements set out below.

## 8.2 Minimum energy audit requirements

The ESOS energy audit is an assessment of your energy consumption and energy efficiency to identify tailored and cost-effective measures which you could implement to save energy.

The energy audit must include:

- collection of energy consumption data (section 8.3)
- site visits to a representative selection of a participant's sites (section 8.4)
- analysis of the participant's energy consumption, using energy consumption profiles where possible (section 8.5)
- identifying all potential options for improving the participant's energy efficiency (section 8.6)
- recommending practical and cost-effective energy saving measures for your organisation – these are termed energy saving opportunities (section 8.6)
- estimating costs and benefits of any energy saving opportunity, using life cycle analysis where appropriate (section 8.7)
- categorising energy savings opportunities (section 8.8)
- identifying considerations relevant to the implementation of any energy saving opportunity (section 8.9)
- recommending a programme for implementing energy savings opportunities (section 8.9)

ESOS does not mandate specific energy auditing methodologies that must be used.

All energy audits must be reviewed by an ESOS lead assessor.

## 8.3 Energy consumption data

So far as reasonably practicable, you must base the energy audit on energy consumption data, which must:

- be calculated using energy units and not cost data
- be based on verifiable data

- cover a period of 12 consecutive month's energy consumption for the asset or activity

The 12-month period for each asset or activity must:

- begin no earlier than 12 months before the start of the compliance period (for the third compliance period it must begin no earlier than 6 December 2019)
- begin no earlier than 24 months before the start of the ESOS energy audit by the participant in the compliance period (for example, for an ESOS energy audit on say 1 April 2023, data must begin no earlier than 1 April 2021)
- not extend beyond the compliance date (that is, not extend beyond 5 June 2025 for the third compliance period)
- not have been included in energy audits for a previous compliance period

You must record (separately for each audit where you carry out more than one):

- the period when the audit was carried out
- the dates of the 12-month period for which energy consumption data was used
- the energy consumption (in energy measurement units) covered by the audit

Where you are unable to use 12 months' verifiable data for your audits, you must provide justification in your evidence pack and make a reasonable estimate of the missing data.

While your assessment of total energy consumption must use data for 12 months including the qualification date and be the same period for all assets and activities, you can use 12 months' data from other periods for the energy audits. The data used for the audits does not need to cover the same 12-month period for all the assets or activities being audited. Where it is different you must keep a record of this.

For the purpose of the energy audits, energy consumption must be analysed in energy units such as kWh. You can use whichever units of energy are most suitable for the area of energy use being assessed.

Energy cost data cannot be used for ESOS energy audits. The use of cost units when measuring energy consumption is only appropriate for the initial measurement of total energy consumption and identification of areas of significant energy consumption.

You must audit all energy supplied, which means any energy that your organisation uses under an agreement with a supplier or third party. This includes energy that's supplied to assets you hold or activities your organisation carries on and includes buildings, installations, transport and construction

activities. It also includes any energy your organisation generates itself, except capturing and consuming surplus heat from an industrial process.

Where a source of energy is used to create heat or electricity you will be expected to audit (and use energy consumption profiles for) both the process of converting the energy to heat and the assets or activities that use the heat and electricity.

## 8.4 Site visits

The energy audit must be based on site visits which are representative of how energy is used by your assets and activities during the period covered by the audit. However, you do not have to visit every site where large undertakings hold more than one site.

You must make sure you've collected and analysed data for all your areas of significant energy consumption (or where applicable your total energy consumption) regardless of the number of site visits.

Organisations with multiple sites or assets that are identical or very similar can take a proportionate approach and apply the energy saving opportunities identified in their site visits to their wider portfolio.

The lead assessor and participant organisation should determine a suitable site visit sampling approach to reflect the energy consumption patterns of their assets and activities.

This is not prescribed in legislation, other than that it must be representative, and as such it is for your organisation and your lead assessor to agree this.

You must however explain in your ESOS report and evidence pack the approach you took and how this reflects the energy consumption patterns and saving opportunities for your portfolio of assets and activities. You must record at a minimum:

- the number of sites visited for the audit
- the total number of sites covered by the audit
- the reasons why the sites visited for the energy audit are considered to be representative of your assets and activities covered by the audit

The information on the number of sites visited and the reasons why these are considered to be representative must also be included in your compliance notification.

In a compliance audit the regulators will look for well-reasoned and documented justifications for the approach you took and why conclusions from your sample of site visits would be applicable to the other sites covered in the sample.

In a multi-tenanted building where several parties may have responsibilities for ESOS compliance, one site visit and audit could be done for the whole building

and all the supplies consumed within it. This audit could be used as evidence of compliance in relation to a number of participants who had ESOS compliance responsibilities in relation to the building. If this approach were adopted, each participant would just need to record in their evidence pack the energy saving opportunities applicable to them. This arrangement is something that will have to be agreed, as appropriate, between the parties involved. Alternatively, individual participants can carry out their own audits of their specific energy use in the building.

## 8.5 Analysis of energy consumption and energy consumption profiles

Your energy audit must analyse your organisation's energy consumption and energy efficiency.

You must, where practicable, use energy consumption profiling in your analysis of energy use for the ESOS energy audit.

Energy consumption profiles are a breakdown of how energy is used by a particular asset or activity and how that energy use varies.

For example, in an office building, the energy consumption profile could include energy used for heating, ventilation, air conditioning, lighting, and appliances.

Your ESOS energy audit should review the energy consumption profile of buildings or groups of buildings, industrial processes and transportation.

ESOS provides flexibility in the use of energy consumption profiles for ESOS energy audits, as it may not always be possible or proportionate to develop energy consumption profiles. Energy profiling is however, a valuable tool in energy management and should be done whenever practicable.

If you do not include an analysis based on energy consumption profiles for an ESOS energy audit, you must outline the justification for this in your ESOS Evidence Pack and make reference to this in your compliance notification to the Department of the Environment and Climate Change.

Different types of profiles that may be useful are:

- static profiles: these are useful in situations where there are many different energy uses within an asset or activity (for example at a manufacturing site) at any given time and the profile of energy use is poorly understood
- time profiles: these are useful in situations where there is a cyclical or identifiable pattern of energy use over time within an asset or activity and you want to (further) understand what is driving that pattern – for example seasonal demand, weather, or human behaviour (for example shift patterns)
- time interval profiles: this is where two or more time profiles are undertaken at intervals to identify any changes in energy use highlighted

by the changing profiles (for example conducting short time profiles before and after the implementation of an energy saving measure)

## 8.6 Identifying energy saving opportunities

Following the analysis of energy consumption, the energy audit must, so far as is reasonably practicable:

- identify any way in which you can improve your organisation's energy efficiency
- recommend practical and cost-effective energy saving measures for your organisation – these are termed energy saving opportunities

Your ESOS energy audit must include recommendations for cost-effective energy efficiency improvements in all aspects of your energy consumption (including efficiencies in generation, if you self-generate, and the use of the energy), if there are any. These recommendations could include, for instance:

- installing smart meters and energy monitoring tools where they are a part of monitoring and energy reduction strategy
- changing your service and maintenance strategy to ensure vehicles or machinery operate more efficiently
- replacing business travel with video conferencing where cost-effective
- capital investment projects
- behaviour change projects

To identify whether measures are cost-effective, you will need to identify the financial costs and benefits of each measure identified (see section 8.7).

Where practicable, an ESOS energy audit should use life-cycle cost analysis (LCCA) instead of simple payback period (SPP) for cost-benefit analyses. You will, however, need to calculate a payback period in order to categorise your energy saving opportunity for the purposes of reporting in the compliance notification (see section 8.8).

## 8.7 Identifying costs and benefits

For each of the energy saving opportunities identified, the energy audit must:

- estimate the expected financial costs and benefits from implementing the opportunity
- identify any non-financial costs and benefits
- estimate the potential annual energy cost savings from implementing the opportunity



- estimate the potential annual reduction in energy consumption from implementing the opportunity
- calculate a payback period, which is the estimated cost of implementing the measure divided by the estimated annual cost savings to give the number of years

Costs and benefits can include one-off costs or benefits such as equipment costs or installation costs, as well as ongoing costs or benefits such as maintenance costs or reduced energy bills. When considering the financial costs and benefits you should consider not just energy costs that may be reduced from implementing a measure, but also other benefits such as reduced maintenance costs or longer product lifetimes before replacement (for example, for LED lighting compared to fluorescent tubes). These can be considered even where a full life-cycle cost analysis is not deemed appropriate.

Relevant non-financial benefits may include improved workforce conditions, improved product quality on production lines, improved staff productivity and wellbeing, better customer experience, earlier identification of equipment failures, or reduced noise from production lines.

Your ESOS energy audit must calculate how much you could save from improved efficiency, both in relation to reduction in energy consumption and energy cost. The reduction in energy consumption should be in common energy units across all energy saving opportunities.

You must keep records in your evidence pack of the calculation method for any estimates you used.

## 8.8 Categorising energy savings opportunities

You will not be required to report in your compliance notification a list of all energy savings opportunities identified. However, you will be required to report on the estimated energy savings that could be achieved by implementing energy savings opportunities, broken down by:

- organisational purpose (buildings, transport, industrial processes, other energy uses)
- type of energy saving measure

You must therefore categorise each energy saving opportunity identified by organisational purpose:

- buildings
- transport
- industrial processes
- other



If an energy saving opportunity covers more than one of these, for example an overall recommendation to train relevant staff on energy efficiency, then you should estimate separate savings for the four purposes. For example, if you estimate that you could save 10,000 kWh from training staff across your organisation, and you have both industrial and building energy uses, you could estimate 9,000 kWh savings from industrial processes and 1,000 kWh savings from buildings.

You must separately categorise each opportunity as falling under one of the following types of energy saving measure:

- energy management practices
- behaviour change interventions
- training
- controls improvements
- short term capital investments (with a payback period of less than 3 years)
- long term capital investments (with a payback period of more than 3 years)
- other measures not covered by one of the above

## 8.9 Information relevant to implementing energy savings opportunities

The energy audit must provide information relevant to implementing energy savings opportunities. This covers a suggested programme for implementing energy savings opportunities.

### 8.9.1 Suggested programme for implementation

The energy audit must also provide a suggested programme for implementing all or a selection of the energy savings opportunities identified. This must include:

- a timescale for implementing the opportunities
- combined costs, benefits and a payback period for carrying out the opportunities identified in the programme

The timescale should suggest appropriate intervention points for any opportunity identified which is not one that would be appropriate to implement immediately, which could include for example:

- measures to consider in relation to renewal of building, transport or equipment leases
- measures to consider in relation to the expected end of life of vehicles or equipment

For example, if an energy saving opportunity suggested is to improve insulation in a leased building for which the lease is shortly up for renewal, the organisation might want to wait until the new lease has been signed rather than risk making an investment which might not pay back. Another example could be where an organisation leases its vehicles it could consider specifying more energy-efficient vehicles when the lease is up for renewal. The audit could also identify when lighting ballast is due to reach the end of life and suggest upgrading to a more energy efficient system at this point, or propose a controls upgrade when a boiler needs replacing.

Implementation information could also include:

- information on how building, transport or equipment leases or tenancy agreements might affect the implementation of an energy savings opportunity identified, where this may be relevant
- information on how other existing legislation or planned legislative changes may affect implementation of recommended energy savings opportunities, for example planned technology phase-outs or changes to local or national regulations, such as low emissions zones or planning regulations, which may affect the longer term benefits of energy savings opportunities
- guidance on potential next steps for action, where this is useful for the organisation, for example, what type of contractor, and terms of reference, might be required to implement recommendations

## 8.10 ISO 14001:2015

ISO 14001 certified organisations may wish to use their certified environmental management system (EMS) to support ESOS compliance. You can integrate ESOS compliance into the EMS by:

- establishing objectives relating to energy use
- providing a structure for capturing and managing relevant ESOS energy data as documented information
- doing energy audits as part of an internal EMS audit programme that meet the minimum ESOS requirements described
- making sure in-house energy managers are qualified and competent
- sharing audit findings with top management through a forum

## 9. Using an alternative compliance route

You must choose one or more routes to compliance that cover all your areas of significant energy consumption.

You can demonstrate that you've made a compliant ESOS assessment using:

- ISO 50001 certification,

- ESOS compliant energy audits.

If you choose to comply with ESOS using an existing certification or assessment, it must have been issued after 5 December 2015 and be valid at the compliance date – 5 December 2019 for the second compliance period.

Previous audit work, for instance performed as part of other energy audit schemes, can be used towards compliance for ESOS, provided it:

- was conducted within the compliance period, and
- meets the minimum requirements of an ESOS energy audit.

You should keep a record of how your areas of significant energy consumption are covered by your compliance routes, in your ESOS Evidence Pack.

## 9.1 ISO 50001 certification as a partial compliance route

ISO 50001 is an international standard which specifies requirements for establishing, implementing, maintaining and improving an energy management system.

If you have a certified ISO 50001 energy management system that covers all your energy supplies, this is covered separately in section 7.1.

If you have a certified ISO 50001 energy management system that covers only some of your energy supplies you can use this as a route to compliance if:

- the energy management system was certified by a relevant body during the compliance period (for the third compliance period, the management system can have been certified any time after 5 December 2019)
- the certification remains valid at the compliance date (for the third compliance period you can choose whether you want to use the original compliance date of 5 December 2023 or the extended compliance date of 5 June 2025).

If you are using an ISO 50001 that covers only some of your supplies as one of your routes to compliance then the energy management system must be certified by one of the following:

- United Kingdom Accreditation Service (UKAS) accredited certification body
- a body accredited by an EU member state's national accreditation body
- a body accredited by a body which is a member of the International Accreditation Forum

The proportion of the total energy consumption covered by the ISO 50001 certification will need to be determined. If it covers at least 95% (all your areas

of significant energy consumption) no further compliance routes would be needed for your compliance. However, you would need a lead assessor to review your compliance and you will need to complete an ESOS report. You will also need to keep evidence in your evidence pack that your ISO 50001 certification covers your areas of significant energy consumption.

If it does not cover at least 95% of your total energy consumption then you will need to combine the energy covered by the ISO 50001 certification with the energy covered by the other compliance routes to ensure that overall at least 95% is covered.

Energy directly covered by an ISO 50001 certification from one of the bodies listed above can be considered fully compliant with ESOS and does not need any further review, but you need to carry out additional requirements to complete your ESOS report (see section 10).

## 10. Completing the ESOS report

You must complete an ESOS report that records details of your ESOS assessment, unless you have zero energy supplies (see section 4.7). An ESOS report is a record of your ESOS assessment, including records of any ESOS audits and any alternative compliance routes used.

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### **Changes for the third compliance period**

In the first and second compliance period, completing an ESOS report was not required in regulations, though in practice many organisations did complete an ESOS report setting out the results of their ESOS audit. The content of the report was not set out in guidance other than for illustrative purposes.

From the third compliance period onwards, all ESOS participants must produce an ESOS report, including those that used only alternative compliance routes for ESOS compliance. The minimum requirements for the contents of the report are set in regulations, but participants should also include other information where this is relevant.

Participants with ISO 50001 certification covering all of their energy supplies are required to complete an ESOS report with more limited requirements (see section 10.1).

The ESOS report is used to record specific information needed for compliance, and also forms an output of the assessment and any audits or alternative compliance routes. This enables this information to be easily reviewed by a board level director (or equivalent) for the purpose of signing off that the participant has complied with all the requirements. It also enables relevant information to be shared within the corporate group, as well as providing a summary of all the important information in one place.

You must produce the ESOS report before the compliance date for the compliance period to which the ESOS assessment relates, which for the third compliance period is 5 June 2025.

An ESOS report must contain specific information as set out in sections below, but should also include any additional information that you think is relevant to your ESOS assessment, energy audit or alternative compliance routes.

Unless you have ISO 50001 certification covering all of your energy supplies, you must include the information summarised below (and elaborated in the following sections) in your ESOS report:

- organisational details
- details of the board level director(s) responsible for sign-off, the lead assessor and any other personnel involved in completing significant parts of the assessment and/or the report
- details relating to total energy consumption and significant energy consumption calculations, energy subtotals by organisational purpose and energy intensity ratios
- estimates of energy savings achieved by the participant since the previous ESOS compliance period
- details relating to any energy audits and/or alternative compliance routes used for compliance:
  - scope and coverage of the audit/compliance route
  - summary of outputs and energy savings measures identified
  - estimated savings that could be achieved by implementing energy savings measures identified
  - information relevant to implementing energy savings measures identified

If your organisation reports as a corporate group, the ESOS report, or parts of the report, must be shared by the responsible undertaking with other undertakings within the participant group, as set out in section 10.5.

## 10.1 Requirements for participants with ISO 50001 certification covering all energy supplies

If you have ISO 50001 certification covering all of your energy supplies, you need to include the following information in the ESOS report relating to the assessment:

- organisation name, number of companies in the participant group and corporate group structure chart or equivalent information setting out the relationship between organisations in the participant group

- details of the board level director responsible for sign-off and any personnel involved in completing the assessment and/or the report
- total energy consumption in kWh, and subtotals by organisational purpose
- energy intensity ratios for each relevant organisational purpose
- documented information maintained under section 7.5 of ISO 50001 which demonstrates that 100% of your total energy consumption is covered by the scope of your ISO 50001 energy management system during the compliance period

You only need to include the following information in the ESOS report relating to energy savings achieved and potential energy savings measures identified:

- documented information which is maintained under section 7.5 of ISO 50001, setting out the outcomes of any performance evaluations under section 9 of ISO 50001 and/or any other records within the energy management system which identify improvements in energy performance indicators relating to energy spend or energy consumption over the compliance period, and what actions the organisation took to achieve these improvements, for example planned actions under section 6 of ISO 50001 to address risks and opportunities or to meet objectives and targets
- documented information which is maintained under section 7.5 of ISO 50001, setting out any opportunities for improving energy performance identified through energy reviews under section 6.3 of ISO 50001 and the potential improvement in energy performance indicators relating to energy spend or energy consumption that could be achieved by implementing those opportunities, where identified

You do not need to include any further information, though you may choose to also include additional information where you consider this relevant such as a breakdown of the energy performance improvements or opportunities for improving energy performance by organisational purpose and/or category of energy saving measure (see section 10.2.2 for categories).

The requirements around sharing the ESOS report and supporting data to any group undertakings also apply for participants with ISO 50001 certification covering all of their energy consumption.

In this case, you are only required to share details of energy reviews which are recorded as part of the ISO 50001 energy management system and which relate to the undertaking (whether or not these are included in the ESOS report itself).

## 10.2 Requirements for all other participants

All ESOS participants that do not have ISO 50001 certification covering all of their energy supplies must include in their ESOS report the information contained in this section.

Your ESOS report must contain the following organisational information:

- organisation name
- the number of companies within the participant group
- corporate group structure chart or equivalent information setting out the relationship between organisations in the participant group

The corporate group structure chart or equivalent information should clearly set out the relationship between the relevant undertakings complying with the scheme as one participant, as well as identifying any organisations which are part of the corporate group, but not required to report for ESOS. This should include:

- identification of the responsible undertaking
- the highest UK parent, where this is not the same as the responsible undertaking
- any overseas parent, where applicable
- any franchises that have elected to be included within the participant group
- any trust assets to be reported on
- information on any group undertakings which have disaggregated from the participant group as covered by section 2.6
- information on any group undertakings which ceased to be part of the participant group between the qualification date and the compliance date, as covered by section 2.8

If your organisation is not part of a corporate group and you do not report on any trust assets or on behalf of any franchises you do not need to provide a structure chart, you can simply state that you are not part of a group.

You must also include in the report:

- the name of the board level director (or equivalent) responsible for signing off that the organisation is compliant
- where the participant has used an internal lead assessor or has not appointed a lead assessor due to low energy consumption, the name of the second director required for sign-off
- the name of the lead assessor, where the organisation is required to appoint one, and the accreditation scheme they belong to (or schemes, if they belong to more than one)
- the names of any other personnel involved in completing a significant proportion of any ESOS audit, any site visits, any data collection for the ESOS audit and/or the drafting of the report



A significant proportion means any person who has made a contribution of at least 5% of the total time spent on site visits, at least 5% of the total data collected for the ESOS audit and/or at least 5% of the total text of the report.

All participants must also include details of the following energy consumption figures calculated for the assessment:

- total energy consumption in kWh (see sections 4 and 6.1)
- significant energy consumption in kWh (see sections 5 and 6.1)
- percentage of total energy consumption covered by areas of significant energy consumption (see section 5)
- energy intensity ratios for each organisational purpose (see section 6)

### 10.2.1 Estimating energy savings since previous ESOS assessment

You must also include in your ESOS report an estimate of energy savings in energy units achieved since the end of the previous compliance period. So for the third compliance period you must include energy savings achieved between 6 December 2019 and 5 December 2023. For the purpose of estimating savings the compliance date does not extend to 5 June 2025, so you must only report on savings up to 5 December 2023.

These are savings that you can attribute specifically to energy efficiency measures that you have implemented during the compliance period you are reporting on (so for the third compliance period any measure that was implemented between 6 December 2019 and 5 December 2023) and do not include reductions in energy consumption for other reasons such as selling assets or reduced production output.

These savings can relate to:

- measures identified through ESOS reports
- measures identified through alternative compliance routes
- other measures not identified through ESOS

You should provide a list of the energy efficiency measures you have undertaken and provide an estimate of the total savings achieved during the compliance period for each measure. You should provide all energy savings estimates in the same energy unit.

There is no particular estimation method you should follow to estimate savings. Some possible methods are:

- data comparison: comparing energy consumption for the relevant energy supply point between two comparable periods before and after the implementation of the measure, accounting for any other variables which might affect energy consumption (for example, weather patterns, production output) to the extent this is reasonably practicable



- **rated power:** where you have replaced equipment or components with a higher rated power with those that have a lower rated power, you can estimate the difference based on the difference between the rated power. For example when replacing a 100W light fitting with a 40W fitting the reduction in power is approximately 60W. The annual energy saving can therefore be estimated as approximately:  $0.06 \text{ kWh} \times 8760 \text{ h (in a year)} = 525.6 \text{ kWh}$ , which can then be multiplied by the number of fittings to estimate the savings for the project
- **estimate produced through a feasibility study or quote produced prior to the measure being implemented with subsequent validation, where reasonably practical, that the expected savings have been achieved**
- **validated estimate from previous ESOS report:** where you have implemented an energy savings opportunity identified in a previous ESOS report, you can use the estimate of savings in the ESOS report. Where reasonably practical you should confirm using the data comparison method above that the approximate energy savings predicted have been achieved

If you implemented a measure which was not identified in a previous ESOS report and do not have sufficient data available to estimate the energy savings, you should identify the measure that you have implemented and state that there is insufficient data to estimate the savings.

If you implemented a large number of measures under a single programme for which you only have aggregate data for the whole programme, you should report the programme as a single measure.

You must keep records in your evidence pack of the calculation method for any estimates you used.

### **Worked example**

Participant A replaced all of the electric water heaters in a building with a more energy efficient model in April 2021. Participant A estimates the energy savings by comparing monthly average energy consumption from the twelve months prior to installation with the monthly average after installation, based on submetering data. This provides an estimate of the monthly savings from replacing the heaters. They then multiply monthly savings figure by the number of months that the water heaters were installed for during the compliance period, i.e. the number of months from April 2021 to December 2023, which is 20 months, to get the total estimated saving for the compliance period.

Participant A keeps records in their evidence pack of the calculations and data used.

### 10.2.2 Categorising energy savings and calculating subtotals

Having identified the estimated energy saving during the compliance period for each measure, you should then identify for each measure:

- the category of energy saving measure implemented
- for which organisational purpose (buildings, transport, industrial processes, other energy uses) the energy consumption has reduced
- whether it was a measure identified through:
  - an ESOS energy audit
  - an alternative compliance route
  - neither of the above

The categories of energy saving measure are the same as those listed in section 8.8 on categorising energy savings opportunities:

- energy management practices
- behaviour change interventions
- training
- controls improvements
- short term capital investments (with a payback period of less than 3 years)
- long term capital investments (with a payback period of more than 3 years)
- other measures not covered by one of the above

For the category of short and long term capital investments for the purpose of identifying the payback period, you can use the original payback period estimated in the ESOS report where the measure was recommended, if applicable. If you do not have data to identify the payback period, you can decide which of 'short term' or 'long term' investments the measure should come under.

So, in summary, using the individual energy savings you have estimated and the categories, you should then calculate in energy units:

- the total estimated savings achieved over the compliance period
- the estimated savings achieved for each of:
  - buildings
  - transport
  - industrial processes
  - other energy uses
- the estimated savings achieved for each of:
  - energy management practices
  - behaviour change interventions
  - training
  - controls improvements
  - short term capital investments (with a payback period of less than 3 years)
  - long term capital investments (with a payback period of more than 3 years)

- other measures not covered by one of the above

You should include these totals in your ESOS report, along with a summary of the measures you have implemented which have resulted in these savings. You should separately identify any further measures you have implemented for which energy savings estimates are not available.

You must also include some of this information on energy savings achieved in your compliance notification.

## 10.3 Requirements for participants complying using an energy audit

Where you have carried out one or more energy audit for the purpose of complying with ESOS, you must provide the following information in the ESOS report in relation to each separate audit carried out:

- the date or period over which the energy audit was carried out
- the 12-month period to which the energy audit relates (see section 8.3)
- the energy consumption calculated for the purpose of the audit (see section 8.3)
- the number of sites visited for the audit (see section 8.4)
- the total number of sites covered by the audit (see section 8.4)
- the reasons why the sites visited for the energy audit are considered to be representative (see section 8.4)

You must provide in your ESOS report a description of the analysis carried out as part of your audit, as set out in section 8.5. This should include details of any consumption profiles used and the findings of any site visits.

You must also provide in the report a summary of all improvements to energy efficiency identified through the audit.

For each cost-effective energy saving opportunity identified through the audit(s) you must provide in the ESOS report:

- a description of the energy saving opportunity
- estimated financial costs and benefits from implementing the opportunity (this may be in the form of a payback period or life-cycle cost analysis – see section 8)
- non-financial costs and benefits of implementing the opportunity
- potential estimated annual reduction in energy spend and energy consumption from implementing the opportunity

You must also provide in the ESOS report an estimate calculated in both £ sterling and in energy units of:

- the total potential annual energy savings from carrying out all opportunities
- the potential savings for carrying out opportunities relating to each of:
  - buildings
  - transport
  - industrial processes
  - other energy uses
- the potential savings for carrying out opportunities relating to each of:
  - energy management practices
  - behaviour change interventions
  - training
  - controls improvements
  - short term capital investments (with a payback period of less than 3 years)
  - long term capital investments (with a payback period of more than 3 years)
  - other measures not covered by one of the above

You must also provide in the ESOS report the implementation information identified in section 8.9 relating to:

- a suggested programme for implementing energy savings opportunities, including timescales, costs and benefits and a payback period for the programme

You may also wish to include in the ESOS report the additional implementation information suggested in section 8.9 relating to:

- information on how legislation or planned legislative changes may affect implementation of energy savings opportunities
- potential next steps for action

If you have used both energy audits and alternative compliance routes for your ESOS compliance, you must additionally include the information set out in section 10.4 below for each alternative compliance route you have used.

You should use your ESOS report as part of the compliance sign-off process with the board level director or equivalent and you must keep a copy of your ESOS report in your evidence pack.

You must also share a copy of your ESOS report, or relevant parts of your report, with other parts of your participant group, where applicable (see section 10.5).

## 10.4 Requirements for participants complying using alternative compliance routes

Where you have used one or more alternative compliance routes for the purpose of complying with ESOS (other than where you have ISO 50001 certification covering all of your energy supplies), you must provide the following information in the ESOS report:

- where you have complied using a certified ISO 50001 energy management system which covers only part of your organisation:
  - which of your assets and activities fall under the certified energy management system
  - the percentage of your total energy consumption covered by the certified energy management system

You must also provide a summary of the measures for reducing energy consumption recommended through ISO 50001 energy reviews during the compliance period. Where the information can be identified from the records of your alternative compliance route, you must provide the potential estimated annual reduction in energy spend and energy consumption from implementing each measure.

Where reasonably practicable, you must identify the organisational purpose (buildings, transport, industrial processes, other energy uses) which any measure identified relates to, and the energy savings category (as per the list below) of the measure.

You should use this, where available, along with available data from the relevant alternative compliance route, to calculate and include in the ESOS report an estimate, in both £ sterling and in energy units, of:

- the total potential annual energy savings from carrying out all measures
- the potential savings for carrying out measures relating to each of:
  - buildings
  - transport
  - industrial processes
  - other energy uses
- the potential savings for carrying out measures relating to each of:
  - energy management practices
  - behaviour change interventions
  - training
  - controls improvements
  - short term capital investments (with a payback period of less than 3 years)
  - long term capital investments (with a payback period of more than 3 years)
  - other measures not covered by one of the above

Where energy savings in £ sterling and/or an energy unit have not already been identified through your method of alternative compliance, you do not need to provide these estimates of potential energy savings. If this information cannot be included in the report, you should state in the ESOS report that it is not available and the reason for this.

If a measure identified through an alternative compliance route covers more than one organisational purpose, for example an overall recommendation to train relevant staff on energy efficiency, then you should estimate separate potential savings for the four purposes. For example, if you estimate that you could save 10,000 kWh from training staff across your organisation, and you have both industrial and building energy uses, you could estimate 9,000 kWh savings from industrial processes and 1,000 kWh savings from buildings.

You must also provide in the ESOS report the implementation information identified in section 8.9 relating to:

- a suggested programme for implementing energy savings opportunities, including timescales, costs and benefits and a payback period for the programme

You must also share a copy of your ESOS report, or relevant parts of your report, with other parts of your participant group, where applicable (see section 10.5).

## 10.5 Sharing the report with other undertakings in a participant group

Where your organisation is part of a corporate group which reports together for the purpose of ESOS, the responsible undertaking must disclose to every other undertaking within the group any information in the ESOS report that is relevant to that undertaking, and any supporting documentation in relation to alternative compliance routes, except where there is an exemption as per section 10.5.1.

This requirement applies to any undertakings which were part of the group on the qualification date. For information on undertakings which ceased to be part of the group between the qualification date and the compliance date, or which became part of the organisation after the qualification date see per section 10.5.2.

The purpose of sharing this information is to ensure that relevant information in ESOS reports and supporting documentation is provided to decision makers within undertakings which are part of the corporate group. Because the responsible undertaking is the only obligated party in relation to ESOS, other undertakings within the corporate group may not be aware of recommendations made in ESOS reports which may be relevant to them. Requiring this information to be provided to all group undertakings means that all group undertakings have the relevant information needed to make decisions on energy efficiency and take forward recommendations.

You may elect to share the whole ESOS report with each undertaking, or you may elect to share only the relevant information which is set out below. There is no particular format that you must use for sharing the information, but you must confirm in your compliance notification that you have shared this information and you should keep relevant records in your evidence pack.

The information from an ESOS report that you must share with a group undertaking (unless exempt under section 10.5.1) is:

- a description of any energy saving measure identified in the ESOS report (whether identified through an energy audit or alternative compliance route) which relates to the energy consumption, assets or activities of the undertaking
- the following information in relation to any such energy saving measure:
  - the estimated costs and benefits of implementing the energy saving measure, (including the estimated annual reduction in energy spend and energy consumption from implementing the measure), where this is identified in the ESOS report
  - any considerations relevant to the implementation of the energy saving measure (regulations, support and implementation programme) which are identified in the ESOS report
- the following information in relation to compliance using energy audits:
  - any details of analysis of energy consumption and energy efficiency within the ESOS report which relates to the energy consumption, assets or activities of the undertaking (this includes details of site visits)
  - any energy consumption profiles which relate to the undertaking

The additional supporting documentation for an alternative compliance route that you must share with a group undertaking (unless exempt under section 10.5.1) is:

- for compliance using ISO 50001: details of energy reviews recorded as part of the ISO 50001 energy management system which relate to the undertaking

You must share all energy savings measures which are deemed relevant to the energy consumption, assets or activities of a group undertaking. This includes not only measures in the report which are specific to that undertaking, or its assets and activities, but also measures where a recommendation is made which can be generalised across multiple parts of the corporate group and which are applicable to that undertaking.

For example if a recommendation is made in the ESOS report to improve driver training for fleet vehicles across the organisation, this recommendation should be shared with all group undertakings which have fleet vehicles, and any other information relevant to that recommendation such as costs, benefits and implementation considerations.



You must confirm in the compliance notification that the information in the ESOS report and supporting documentation has been shared in accordance with this section, and the board level director (or equivalent) responsible for signing off ESOS compliance must confirm that the information has been shared.

#### 10.5.1 Exemptions from requirement to share the report with other undertakings in a participant group

You are not required to share information in an ESOS report, or supporting information, with any group undertaking where doing so would conflict with any other legal requirements or prohibitions.

In particular, the responsible undertaking may need to determine whether sharing information from the ESOS report or supporting documentation may be affected by competition law. For example, in the case of a corporate group which contains manufacturers and distributors of materials, it may not be suitable to disclose the energy-related opportunities and risks of the manufacturer with the distributor, especially in relation to the costs of, for example, plasterboard product.

If, following legal advice, you understand that there is a legal reason why information in the ESOS report must not be shared with one or more group undertakings, you must include the following information in your compliance notification:

- the parts of the ESOS report (or supporting information) that the responsible undertaking is prohibited from disclosing to the group undertaking in question, and
- the reasons why you consider that disclosure of those parts of the ESOS report (or supporting information) is prohibited by law

Even in the case that some information may not be shared, you should consider whether you can share limited or summary information from the information set out in section 10.5.

#### 10.5.2 Changes to groups of undertakings after the qualification date

If one or more undertakings leave a qualifying group between the ESOS qualification date (31 December 2022 for the third compliance period) and the compliance date (extended to 5 June 2025 for the third compliance period), whether you need to share information with that undertaking depends on how the undertaking is complying with ESOS, as set out in section 2.8.

An undertaking can comply:

- with its previous group
- with its new group
- on its own, in the absence of a written agreement with the previous or new group



Where an undertaking complies on its own, it would produce its own ESOS report for that participant only and there is no requirement to share information.

Where a written agreement exists for an undertaking to comply with the previous group, the responsible undertaking for that previous group is responsible for ESOS compliance for that undertaking, which includes ensuring that the ESOS assessment and report covers that undertaking and the sharing of relevant information from the ESOS report with that undertaking, even though it is no longer part of the corporate group (unless sharing this information is prohibited by law).

Where a written agreement exists to comply with a new group, the responsible undertaking for that new group is responsible for ESOS compliance for that undertaking, which includes ensuring that the ESOS assessment and report covers that undertaking and for sharing relevant information from the ESOS report with that undertaking (unless sharing this information is prohibited by law).

Where an undertaking has left a participant group and there is no written agreement that the undertaking will comply with the previous participant group, it would not normally be the case that there is information in an ESOS report relating to that undertaking. However, if this is the case for any reason, then there is no requirement to share information with an undertaking that has left the participant group where there is no written agreement that the previous group is responsible for ESOS compliance.

If a qualifying group purchases an undertaking (between the qualification date and the compliance date) from an organisation that did not qualify for ESOS then you do not have to share relevant information from the ESOS report with that undertaking.

If a qualifying group sells an undertaking to an organisation that did not qualify for ESOS and there is a written agreement to comply in a group with the new organisation, that organisation must comply with ESOS in relation to that undertaking, and this includes sharing relevant information from the ESOS report with that undertaking.

## 10.6 Templates for collating ESOS data and reporting findings

The Department of the Environment and Climate Change will not be requiring data to be collated or recorded in particular formats, and so are not providing standard templates for these activities or the presentation of findings to directors. As long as the ESOS assessment has been conducted, 95% of the total energy consumption is compliant via ESOS audits or an alternative route to compliance, and the data to evidence this work and its findings is recorded, this will be sufficient.

This is to reduce the administrative burden on organisations who have existing data management procedures and tools which may be able to be used in or referenced from their evidence pack.

The only standardised element is the notification of compliance. This is available on the ESOS webpage <https://www.gibraltar.gov.gi/new/energy-saving-opportunity-scheme>

You will also need to maintain additional information in your evidence pack, such as copies of ESOS audits, to demonstrate compliance if you are asked to do so by the scheme regulators.

## 11. Notification of compliance, sign-off and publication of data

Once you have completed your ESOS assessment and ESOS report, you must submit a compliance notification to the Department of the Environment and Climate Change through the online compliance notification system.

The deadline for submitting a compliance notification for the current (third) compliance period is 5 June 2025.

As part of the submission process a board level director (or equivalent) of the organisation must sign off that you are compliant (see section 11.2).

In the compliance notification you need to provide information about:

- your organisation and contact details
- the group structure of the organisation
- the director signing off the notification
- the lead assessor (where you were required to appoint one)
- other people involved in compliance activities
- notification of estimates and other information about the assessment
- high level energy consumption data (including energy intensity ratios) calculated as part of your ESOS assessment
- summary information relating to energy saving measures identified through your ESOS assessment through
  - energy audits
  - alternative compliance routes
- summary information relating to energy savings achieved since the previous compliance date

Where it is available, you should also provide:

- information relating to compliance with the scheme in the second compliance period from 6 December 2015 to 5 December 2019
- information relating to compliance with the scheme in the first compliance period from 17 July 2014 to 5 December 2015

Unless you are audited by your compliance body, you will not be asked as part of your ESOS compliance notification for:

- the details of any audits
- the details of energy saving opportunities you've identified
- a copy of your ESOS report

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### **Changes to compliance notification requirements in the third compliance period**

For the first and second compliance periods participants were only required to provide compliance information about the organisation, the group structure, the director, the lead assessor and certain information about the assessment like use of estimates, but no information about energy consumption or recommendations was required to be notified. All of the information except personal details was made public.

In the third compliance period, in addition to the information previously required, participants are required to provide summary information about the organisation's energy consumption and recommendations. Only some of this information will be published.

## 11.1 The ESOS compliance notification system

You must submit a compliance notification to the Department of the Environment and Climate Change by the compliance date via email to confirm that you are compliant and to provide compliance information. For the third compliance period, the compliance date is 5 June 2025.

As part of the compliance notification you will be required to confirm that a board level director (or equivalent) from the organisation has signed off compliance with the scheme.

If you believe that you will not meet the deadline, please read section 15 on compliance and enforcement which outlines the steps you need to take.

## 11.2 Director sign off

Before submitting the compliance notification, you must get one or more board level directors (or equivalent individuals with management control) from one of the undertakings in the participant group to sign off on both the ESOS assessment and the content of the compliance notification.

Where your lead assessor is external, one director will need to provide this confirmation in writing (to be kept in your evidence pack). Where your lead assessor is internal, or where you have not appointed a lead assessor because

you consumed less than 40,000 kWh, two directors will need to provide this confirmation in writing (to be kept in your evidence pack). The director(s) must confirm that they:

- have reviewed the recommendations of your organisation's ESOS assessment or alternative routes to compliance, and the ESOS report
- are satisfied, to the best of their knowledge, that the organisation is within the scope of the scheme
- are satisfied, to the best of their knowledge, that the organisation is compliant with the scheme
- are satisfied, to the best of their knowledge, that relevant sections of the ESOS report, and supporting information where relevant, have been shared with all undertakings in the corporate group, unless there is a declared reason why this is prohibited by law
- are satisfied, to the best of their knowledge, that the information provided in the organisation's compliance notification is correct

There is no prescribed format for how you need to present the findings of your assessment to your director(s), but at a minimum the director(s) need to review the components of the ESOS report as set out in section 10. You may decide to include additional data in the ESOS report for the purpose of director sign-off. You must have confirmation in writing to confirm the five points above and keep this in your evidence pack.

## 11.3 After you've submitted

You should keep the email in your evidence pack as a record of your submission.

If you later discover the information you submitted was inaccurate, you must email [esos.environment@gibraltar.gov.gi](mailto:esos.environment@gibraltar.gov.gi) to explain the inaccuracy in your original submission. You will need to quote the date of the original notification and the name of the organisation. Do not just resubmit the information.

After the compliance date, you may be selected by your organisation's regulator to check your compliance with the scheme. In the event of a compliance check you will be required to provide evidence of how you have complied with the scheme.

## 11.4 Publication of data

The Department of the Environment and Climate Change will publish the majority of the information provided in your compliance notification, apart from personal or commercially sensitive details and feedback.

The Department of the Environment and Climate Change will not publish any information on organisations we believe qualify for ESOS prior to the compliance date for a compliance period.

In the third compliance period, the Department of the Environment and Climate Change will publish the information submitted through the compliance notification system within 6 months after the compliance date for the period to which the information relates (which for the third compliance period has been amended to 5 June 2025, so that the information will be published by 5 December 2025).

Late submissions, amendments or revised information will subsequently be published within 6 months after the submission.

The information will be published on the ESOS web page

<https://www.gibraltar.gov.gi/environment/energy/energy-saving-opportunity-scheme>

## 12. ESOS action plan

From the third compliance period onwards, ESOS includes additional compliance stages following the submission of the compliance notification: ESOS action plans and ESOS annual progress updates.

Following the submission of the compliance notification, you must produce an action plan, setting out:

- what you intend to do to reduce energy consumption
- when you intend to do it
- whether it was recommended through your ESOS assessment
- what energy savings you expect to achieve over the four year period covered by the action plan
- how you estimated these savings

The action plan must be signed off by a board level director (or equivalent) and submitted via the compliance notification system by the action plan deadline, which for the third compliance period is 5 June 2025.

You do not need to justify your reasoning for choosing to include any particular action in the action plan, but you will subsequently be required to state in annual progress updates whether you achieved the actions in the action plan.

The purpose of the action plan is to require participants to consider what actions from the ESOS audit (or alternative compliance routes) they may wish to carry out before the next ESOS assessment, as well as plan future action to implement energy savings that they will make a public commitment to.

If you do not intend to take any action to reduce energy consumption before the next compliance date, you can submit a notification stating that you will take no action. This will be recorded and published. If your published action plan states that you will take no action but you do subsequently take action to reduce energy consumption, you can still submit and have published an annual progress update stating any actions you have taken.

All participants that qualified for ESOS in a given compliance period are required to subsequently produce an action plan and report against it, unless you had had no energy responsibility during a compliance period and provided a compliance notification stating this.

The responsible undertaking that was responsible for submitting the compliance notification on the compliance date is also responsible for compliance with the action plan and progress updates, and is responsible for reporting on behalf of the same corporate structure, in the absence of any change to that structure.

If you do not submit an action plan by the deadline, by default it will be recorded and published that you do not intend to carry out any energy saving action.

## 12.1 Action plan and annual progress update timings

You must submit an ESOS action plan by 5 June 2025.

The period covered by the action plan is the four years following the compliance period (which coincides with the subsequent compliance period). So for the third compliance period, the subsequent action plan covers the period from 6 December 2023 to 5 December 2027.

You must then submit a progress update in the 6 months following the action plan deadline, which for the third compliance period means the deadline for the first progress update is 5 December 2025, and then a second update in the 18 months following the first deadline, which for the third compliance period means the deadline for the second progress update is 5 December 2026. Each progress update relates to the 12-month period preceding the deadline.

Action plans and annual progress updates will be published by the Department of the Environment and Climate Change within 6 months of the relevant deadline.

For ESOS action plans which relate to the third compliance period, the table below provides a summary of the relevant milestones:

Milestone	Dates relating to third compliance period
<b>Compliance period</b>	6 December 2019 to 5 December 2023
<b>Qualification date</b>	31 December 2022
<b>Compliance date</b>	5 June 2025
<b>Action plan submission deadline</b>	5 June 2025

<b>Period covered by the action plan</b>	6 December 2023 to 5 December 2027
<b>ESOS progress update deadline 1</b>	5 December 2025
<b>Relevant reporting period to be covered by progress update 1</b>	6 December 2024 to 5 December 2025
<b>ESOS progress update 2 deadline</b>	5 December 2026
<b>Relevant reporting period to be covered by progress update 2</b>	6 December 2025 to 5 December 2026

## 12.2 Who needs to submit an action plan

All organisations which were required to comply with ESOS in a given compliance period must submit and provide updates against an action plan which covers the subsequent four years, termed the action plan period.

Whether an organisation is required to produce an action plan is not affected by any changes to the size or turnover of the organisation which might mean it falls under the definition of an SME for the purpose of ESOS during the action plan period. This is determined purely by whether it was required to submit a compliance notification for the original compliance period.

## 12.3 Completing the action plan

The basic information that you must provide in an action plan is:

- a list of all the actions you intend to take to save energy, that you will carry out before end of the action plan period (which for action plans relating to the third compliance period is 5 December 2027)
- for each action, the month and year you intend to take the action
- for each action, whether it was recommended by an energy audit
- for each action, an estimate of the total energy savings you will achieve during the action plan period through carrying out the action
- for each estimate, the source of data used for the estimate
- a combined estimate of the total energy savings you will achieve during the action period across all actions you will take
- a breakdown of these savings by organisational purpose (buildings, transport, industrial processes and other energy use)

Alternatively, you may choose to submit an action plan that states that you will not take any actions to save energy during the action plan period, which will be published that you do not intend to take any actions.



The actions set out in the action plan may be energy savings opportunities recommended in the ESOS audit, measures recommended through an alternative compliance route, or other actions that participants may decide to carry out. Participants should make clear in the action plan whether the actions they commit to in the action plan are recommendations from their ESOS audit, an alternative compliance route, or another source.

### 12.3.1 Identifying actions to include

In order to identify what you want to include in your action plan, you should first look at your ESOS report and other outputs of your energy audit or alternative compliance routes and consider what actions you wish to implement. You can discuss this with your ESOS lead assessor for further information or carry out additional feasibility studies, but this is not required for the action plan. You can also consider whether there are any other actions which are not set out in the action plan that you want to take to save energy.

You then need to decide when you expect to implement each action you intend to include in the action plan.

Action plan requirements are the same for all participants, regardless of compliance route. However, the source from which recommended action/energy savings are drawn must be clearly stated.

### 12.3.2 Additional things you may wish to add

You may add additional information to the basic action plan submission to reflect and make public other actions to save energy and/or greenhouse gas emissions that you may be taking outside of ESOS.

You should therefore consider whether there are any voluntary or mandatory targets or actions that you have already committed to that you wish to include in your action plan.

These could include either that you intend to carry out specific actions or that you intend to reduce energy consumption or greenhouse gas emissions by a specific amount, or a percentage amount, in order, for example, to match commitments already made for a different purpose or scheme. This can include actions to reduce carbon emissions, even where they do not reduce energy consumption, if you have these targets or commitments in place.

You can include targets or actions relating to the whole of a corporate group or to only a part of the corporate group (for example if only one group undertaking has a Climate Change Agreement in place).

If you have committed to targets or action plans for the purpose of other mandatory or voluntary schemes, you can include these in the action plan.

You may provide a summary or overview of intended actions for another scheme if you do not wish to publish the operational details but want the commitment to be made public.



Any additional actions, targets or commitments that are included in the action plan are for the benefit of the organisation to make public its commitment to save energy and/or reduce greenhouse gas emissions, but you should be prepared to provide progress updates against any commitments made in the action plan.

You must make clear in the action plan where any additional targets or actions do not relate to energy savings opportunities identified in the ESOS assessment.

### 12.3.3 Estimating savings

Having considered what actions to take, for each action you must estimate the total energy that you would expect to save from taking that action by the date of implementation.

The savings must be estimated from the date of implementation over the four years of the action plan period, which for the third compliance period is 6 December 2023 to 5 December 2027. If an action is to be implemented by 6 December 2023, then the savings can be estimated for the full action plan period.

If you expect to take the action part way through the action plan period, you should estimate the energy that you expect to save over the period between the date you expect to implement the action and 5 December 2027, for example by calculating a pro-rata saving based on estimated annual savings.

If you are including actions that relate to additional targets or schemes, you should provide the estimated energy that will be saved during the four years of the action plan period in addition to any other information provided. This may mean calculating a pro-rata saving from any existing information you have on estimated energy savings from the target or scheme (see section 12.3.4).

Energy savings must be stated in energy units. You may additionally include information on cost savings, greenhouse gas emissions reductions and/or on percentage savings against a baseline, but you must also include savings in energy units.

The estimate of expected energy savings can be based on:

- data from the ESOS audit
- data from an alternative compliance route
- survey data or quotes, or
- any reasonable estimation method

You must keep records in your evidence pack of the calculation method for any estimates you used, including where you have used data from the ESOS audit or alternative compliance routes. If savings estimates are sourced from information other than the ESOS audit or alternative compliance route, you must state the source of the estimate in the action plan and keep evidence in the evidence pack setting out the reason for using this estimate.

If you used an alternative compliance route for your ESOS compliance which does not provide quantified savings, you may need to calculate estimated savings. You can use any reasonable method, as above, but must keep records in your evidence pack of the method used and the reason for using it.

The estimated savings from actions are intended to be indicative, and there will not be any consequences through the scheme if the actual energy you save is different from the estimated savings. The purpose of estimating savings is for information to be published that gives a reasonable indication of the magnitude of the expected savings.

#### 12.3.4 Estimating savings when including targets

If you are including targets in your action plan, you should estimate the energy savings expected during the action plan period.

You must make clear if the savings estimated relating to the target also includes within it the savings from any specific actions set out that you intend to take, or whether the savings from the target are additional.

When providing targets in the action plan, you should provide a baseline energy consumption and time period against which the targeted energy saving is calculated. This could be:

- the total energy consumption for the first or second compliance period of ESOS and the period of 12 months for which data was used to calculate the total energy consumption
- the energy consumption calculated for the ESOS audit in the first or second compliance period of ESOS and the period of 12 months used to calculate the energy consumption for the ESOS audit
- any other 12-month period or average of more than one 12-month period which the organisation may already be using for reporting, for example to align with a company's financial year or obligations under another scheme or reporting requirement

This baseline should be stated in the action plan. You must keep records in your evidence pack of the calculation method for any estimates you used.

#### 12.3.5 Calculating total savings for the action plan

Once you have calculated the estimated savings for each action you intend to take, you must calculate:

- a combined estimate of the total energy savings you will achieve during the action period across all actions you will take
- a breakdown of these savings by organisational purpose (buildings, transport, industrial processes and other energy use)

When calculating the total savings and savings for each organisational purpose, if you are including energy savings from targets or commitments, you must

make sure you are not double-counting these with energy savings from any specified actions you have included.

#### 12.3.6 Sign off and action plan submission

The finalised action plan must be signed off by a board level director (or equivalent individuals with management control) before this is submitted through the ESOS compliance notification system, although this is not required to be the same director who signed off the ESOS compliance notification.

The director must confirm that they:

- have seen and considered the action plan
- are satisfied, to the best of their knowledge, that the organisation has complied with the requirements relating to the action plan

Only one director needs to complete this confirmation, even where two directors were required for the compliance notification (in the case that you had an internal lead assessor or used less than 40,000 kWh and had no lead assessor).

You must submit your action plan by the action plan submission deadline through the same ESOS compliance notification system as for the submission of the compliance notification. The deadline for submission of the action plan relating to the third compliance period is 5 June 2025.

If you do not submit an action plan by the deadline, by default it will be recorded and published that you do not intend to carry out any energy saving action.

#### 12.3.7 Publication

After you have submitted the ESOS action plan, the Department of the Environment and Climate Change will publish the action plan within 6 months after the action plan submission deadline.

If no commitments are made, the published action plan will state that no commitments have been made. If a participant does not submit an action plan by the deadline, an action plan will still be published for that participant, which will state that no commitments have been made.

If you later discover the information you submitted was inaccurate, you should email [esos.environment@gibraltar.gov.gi](mailto:esos.environment@gibraltar.gov.gi) to explain the inaccuracy in your original submission.

If the action plan is amended after the deadline, this revised information may be published subsequently, subject to verification. The published action plan for each compliance period of ESOS will continue to be available after the end of the action plan period, and is not superseded by any new action plan relating to the subsequent compliance period.

## 13. Annual progress updates

Following submission of the action plan, you must submit an annual progress update against your action plan commitments in the two subsequent years.

The deadline for submitting annual progress updates is 6 months after the action plan deadline, and then 12 months after the submission deadline for the first progress update. For the third compliance period, the deadlines are 5 December 2025, and 5 December 2026. Each progress update relates to the 12-month period preceding the deadline.

The rules around the responsible undertaking and what organisations the progress update covers are the same as for the action plan (see section 12.2). See section 13.4 for information on dealing with changes to the group structure following the submission of the action plan.

The purpose of the progress updates is for ESOS participants to report publicly on what they have done and to encourage participants to take the energy saving actions they have committed to.

The progress update must be signed off by a board level director (or equivalent) and submitted through the notification system.

If you do not submit a progress update by the relevant deadline, by default it will be recorded and published that you did not carry out any energy saving actions.

### 13.1 Completing an annual progress update

Your annual progress update is a report of actions taken against your action plan, but may also include actions not included in the action plan, as long as you make clear that these are additional actions.

Each annual progress update must include:

- a list of all of the energy saving actions included in the action plan that you implemented during the period of 12 months covered by the progress update
- a list of any actions in the action plan that you did not implement during the period of 12 months covered by the progress update, where the date set for the action was during the progress update period
- for each of the actions you implemented from the action plan, whether you implemented it by the date set for it in the action plan
- for each of the actions you implemented from the action plan, an estimate of the total energy savings that you expect to have achieved over the period of 12 months up to the progress update deadline, as a result of implementing the action (see section 13.3 for how to estimate)
- for each estimate, the source of data used for the estimate

- a combined estimate of the total energy savings you expect to have achieved from these actions over the period of 12 months covered by the progress update (that is, the sum of all the individual estimates above)

For the first progress update for the action plan relating to the third compliance period, the period of 12 months that must be covered by savings estimates is 6 December 2024 to 5 December 2025, and for the second progress update during the third compliance period, the period of 12 months is 6 December 2025 to 5 December 2026.

If the action plan includes targets which relate to dates other than ESOS compliance periods, in the annual progress update following that date, you should report on whether these targets have been achieved or not.

If you do not submit an annual progress update by the deadline for the relevant annual progress update, it will be published that you took no actions to save energy during this period.

## 13.2 Additional things you may wish to include in your progress update

If you want to make public through ESOS additional information on energy or carbon savings achieved, you may also choose to include:

- any other actions that you took to reduce energy consumption during the months covered by the progress update
- any additional actions you took to save carbon without making energy savings which resulted in carbon savings during the months covered by the progress update

## 13.3 Estimating savings for the progress update

When estimating savings, you may calculate the savings for the period covered by the progress update based on:

- the prior estimate of savings included in the action plan
- data from their ESOS audit or alternative compliance route
- any other reasonable method to estimate savings achieved

The start date for any estimation of energy savings in a progress update is the date you implemented the measure, where that date is during the months covered by the progress update. Where you are reporting as per section 13.2 on actions you implemented before the start of that period, the start date is the beginning of the period (for example for the first progress update relating to the third compliance period the start date is 6 December 2025).

The end date for the estimation of energy savings is the progress update deadline, even where you submit your progress update in advance of the progress update submission deadline, in order to make the updates comparable between organisations.

Where the data on which you base your estimate, such as meter readings, does not cover the whole period up to the progress update deadline you should pro-rata any estimate of the savings achieved to cover the whole period covered by the progress update.

## 13.4 Changes to the group structure in relation to progress updates

If one or more undertakings leave a qualifying group between the action plan submission deadline (5 June 2025 for action plans relating to the third compliance period) and deadline for the submission of an annual progress update (5 December 2025 and 5 December 2026 for action plans relating to the third compliance period), the undertakings must still comply with the requirement to produce a progress update.

An undertaking that has left its previous corporate group can comply:

- with its previous group
- with its new group
- on its own, in the absence of a written agreement with the previous or new group

If a qualifying group purchases an undertaking (between the action plan deadline and the progress update deadline) from an organisation that was not required to submit an action plan it is for the participant to decide whether they want to include this undertaking in their progress update or not. The progress update submission must make clear whether the undertaking is included or not.

If a qualifying group sells an undertaking to an organisation that that was not required to submit a compliance notification on the compliance date it is for the new group to decide whether they want to submit an action plan covering their whole organisation or just the undertaking that was purchased. The progress update submission must make clear whether the submission is just for the undertaking or for the whole organisation.

Action plans will be published, so undertakings that leave a corporate group will still have access to the published action plan they were included in.

Any changes to the corporate group between the deadline for submitting the action plan and the progress update deadline should be notified alongside the submission of the progress update. It is otherwise assumed that the corporate group remains the same as on the action plan deadline and this is how information will be published. This includes any agreement to aggregate or disaggregate, and any changes to franchise agreements.

## 13.5 Submitting annual progress updates

Each finalised progress update must be signed off by a board level director (or equivalent individuals with management control) before this is submitted through the ESOS compliance notification system, although this is not required to be the same director who signed off the ESOS compliance notification and/or the action plan.

The director must confirm that they:

- have seen and considered the progress update
- are satisfied, to the best of their knowledge, that the organisation has complied with the requirements relating to the progress update

As for the action plan, only one director needs to provide this confirmation.

You must submit your progress update by the relevant progress update submission deadline through the same ESOS compliance notification system as for the submission of the compliance notification.

The deadline for submission of the first progress update relating to the third compliance period is 5 December 2025. The deadline for submission of the second progress update relating to the third compliance period is 5 December 2026.

## 13.6 Publication of progress updates

Once you have submitted each annual progress update, the Department of the Environment and Climate Change will publish the progress update within 6 months after the relevant submission deadline.

If you do not submit a progress update by the relevant deadline, the Department of the Environment and Climate Change will publish a progress update for your organisation stating that no actions have been taken and that any targets committed to in the action plan for that period have not been met.

If you later discover the information you submitted was inaccurate, you should email [esos.environment@gibraltar.gov.gi](mailto:esos.environment@gibraltar.gov.gi) to explain the inaccuracy in your original submission.

If the progress update is amended after the deadline, this revised information may be published subsequently, subject to verification.

## 14. Evidence pack

You must keep an ESOS evidence pack that includes information about how you have complied with the scheme. This should include the information set out in this section where relevant to your organisation.



In relation to your organisation, you must include:

- contact details of the participating undertakings and the responsible undertaking
- details of any board level directors or equivalents who've reviewed the ESOS assessment findings
- written agreements to support any disaggregation or aggregation of group members
- written agreements to support any alternative responsible undertaking chosen (other than the default highest Gibraltar parent)

In relation to the ESOS assessment you must include:

- the calculation for your total energy consumption and primary evidence used
- a list of your identified areas of significant energy consumption
- the calculations for your energy intensity ratios
- details of the energy audits undertaken including the audit methodology used in your ESOS energy audits
- details of the energy saving opportunities identified
- details of the routes to compliance used to cover each area of significant energy consumption and where applicable evidence of the alternative routes to compliance
- details of energy savings achieved during the compliance period
- a copy of your ESOS report
- written confirmation from the lead assessor to evidence that they reviewed the ESOS assessment
- contact details of your lead assessor and the name of the approved register which they are a member of
- written confirmation from the directors to evidence that they reviewed the ESOS assessment
- a copy of your compliance notification submission

In relation to your ESOS action plan and annual progress updates you must also include:

- a copy of the ESOS action plan and each annual progress update
- written confirmation from the directors to evidence that they reviewed the action plan and progress updates

If you are subject to a compliance audit by a scheme regulator, you may be asked to provide evidence from your evidence pack to demonstrate you are compliant. It is therefore important that you keep these records up to date and have access to them when needed.



## 14.1 Keeping records of estimates and other specified information

You must keep records in your evidence pack of the calculation method for any estimates you used for ESOS compliance.

Where the use of verifiable data is specified in this guidance and you have been unable to use verifiable data and have made an estimate using methods set out in this guidance, you must additionally keep records of the reasons for being unable to use verifiable data in each case.

The estimates you must record this for are:

- where you use estimates in your calculation of total energy consumption (see section 4.6)
- where you use estimates in your calculation of total energy consumption and/or significant energy consumption in kWh (see section 6.1)
- where you use estimates to calculate energy subtotals for buildings, transport, industrial processes and other energy uses (see section 6.3)
- where you use estimates to calculate energy consumption for the purpose of the energy audit (see section 8.3)

For each of these you must record:

- the methodology used for the estimate
- the reason for being unable to use verifiable data for the calculation

You will also be required to include in your compliance notification that you have made these estimates.

In addition to recording data related to estimates, you must also keep information in your evidence pack in relation to the following cases where you could not carry out the full requirement:

- reasons for using less than 12 months of data for the measurement of total energy consumption, if you could not do this
- reasons for using less than 12 months of data to support an ESOS energy audit, if you could not do this
- justification, where applicable, where your lead assessor has not used an energy consumption profile in your audit of an area of significant energy consumption
- justification, where applicable, for being unable to share details from your ESOS report with all group undertakings on the basis of legal requirements

You must also keep records in your evidence pack in relation to some specific estimates used for:

- your ESOS action plan
- your progress updates

## 14.2 Retention period

You must keep the evidence pack for the compliance period to which it relates and the two subsequent compliance periods.

Following the extension of the compliance date for the third compliance period to 5 June 2025, the period that the evidence pack for the first compliance period must be kept has been extended, so that this must now be kept until 5 June 2025.

For ESOS action plans and progress updates and any associated evidence, these must be kept for the same time period as the ESOS assessment to which they relate. So an action plan produced following the third compliance period must be kept until the end of the fifth compliance period.

## 15. Compliance, enforcement and appeals

### 15.1 Compliance and enforcement

Organisations that are subject to ESOS, but do not meet the requirements of the scheme to complete a compliant ESOS assessment and submit a compliance notification, may be liable to compliance and enforcement activities. Three types of notice are available under the 2024 amended ESOS Regulations. These are:

- a compliance notice – this is an information request from the regulator to the participant. The compliance notice asks for information so the regulator can determine if the participant is complying with its obligations under ESOS
- an enforcement notice – this tells you what you must do to comply with a requirement of ESOS
- a penalty notice – this imposes civil penalties for breaches of the amended ESOS Regulations

However, under the regulations the regulators are able to waive or modify enforcement action and penalties relating to non-compliance.

Please note that there will not be enforcement action or penalties relating to the non-submission of an action plan or progress update. It will simply be published that the organisation has failed to submit. Enforcement and penalties relate only to the ESOS requirements for completion by the compliance date.

The deadline for compliance is set in the amended ESOS Regulations. The scheme regulators cannot amend this deadline. Qualifying organisations that do not complete a compliant ESOS assessment and compliance notification by the

compliance deadline will be at risk of enforcement action including the possibility of civil penalties.

If you cannot submit your compliance notification by the compliance date, please contact your regulator.

This is a list of possible non-compliances the associated Regulation and range of penalties that could apply.

#### **Failure to notify – Regulation 43**

- a fixed penalty of up to £5,000
- an additional £500 for each working day starting on the day after service of the penalty notice until the compliance notification is completed, subject to a maximum of 80 days
- publication

#### **Failure to maintain records – Regulation 44**

- a fixed penalty of up to £5,000
- the cost to the compliance body for undertaking sufficient auditing activity to confirm that an organisation has complied with ESOS publication
- the penalty notice may specify steps to remedy the breach

#### **Failure to undertake an energy audit – Regulation 45**

- a fixed penalty of up to £50,000
- an additional £500 for each working day starting on the day after service of the compliance notice, until the breach is remedied, subject to a maximum of 80 days
- publication
- the penalty notice may specify a requirement to undertake an ESOS assessment

#### **Failure to comply with a compliance notice, an enforcement notice or a penalty notice – Regulation 46**

- a fixed penalty of up to £5,000
- an additional £500 for each working day starting on the day after service of the penalty notice, until the breach is remedied, subject to a maximum of 80 days
- publication

#### **False or misleading statement – Regulation 47**

- a fixed penalty of up to £50,000
- publication

If you're subject to the publication penalty, the regulator will publish details on their webpages of:

- the person on whom the penalty was imposed
- the legal requirement that was not complied with
- the amount of any financial penalty imposed

## 15.2 Appeals

You can appeal against enforcement actions by the regulators.

You have the right to appeal any determination, enforcement notice or penalty notice that you consider to be based on an error of fact, wrong in law or unreasonable.

If the registered office of the responsible undertaking for the participant is based in Gibraltar, you can appeal to the Magistrates Court.

If enforcement action is taken the relevant notice will include details on how you can appeal as appropriate.