

THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG
Ministry of the Economy

Ref.: 0245-E14

**Article 7 of Directive 2012/27/EU of 25 October 2012 on energy efficiency, amending
Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and
2006/32/EC**

Notification of methodology

In order to transpose into national law the provisions of Article 7 of Directive 2012/27/EU of 25 October 2012 on energy efficiency (hereinafter the 'Directive'), Luxembourg intends to introduce a national energy efficiency obligation scheme into its legislative system. After studying the various schemes in place in other Member States, the scheme deployed in Denmark stood out for its simplicity and efficiency. In order to introduce a similar scheme in Luxembourg, the Ministry of the Economy retained the services of a Danish consultant, Ea Energy Analyses, which has drawn up the basis of a system adapted to Luxembourg's needs and specific characteristics.

In view of the very tight deadline available under the Directive for the transposition of Article 7, which for Luxembourg means planning and setting up an new obligation scheme from scratch, this report must confine itself to outlining the planned method in general terms without entering into the details of the scheme. Consequently, with all due respect, Luxembourg reserves the right to notify at a later stage any additional information not yet available and any changes to the obligation scheme introduced when finalising the design.

Luxembourg intends to achieve in full the objective imposed in Article 7(1) of the Directive through this obligation scheme. There are no plans at present to employ other public policy measures to achieve the energy efficiency objective. Nevertheless, if, when the Directive has been formally transposed or at a later time, it transpires that the obligation scheme has not been as successful as intended, Luxembourg reserves the right to put alternative measures in place to achieve all or part of the national objective.

Under paragraph 4 of Annex V, Luxembourg announces the following:

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

All suppliers of electricity and natural gas serving residential, service sector and industrial customers located in Luxembourg shall be declared obligated parties by law. The obligation will apply to all suppliers operating within Luxembourg regardless of size or the extent of their client base.

Based on the latest official lists of businesses possessing a supply authorisation as kept up to date by the Institut Luxembourgeois de Régulation [Regulatory Agency of Luxembourg] (hereinafter 'ILR'), the following will be affected by the obligation:

- 28 suppliers of electricity, and
- 9 suppliers of natural gas.

Obligated parties will be assigned the public service task of achieving the energy savings objective imposed on Luxembourg under Article 7 of the Directive. To that end, the obligation scheme will be defined in Luxembourg law as a service of general economic interest (hereinafter 'SGEI'), which the obligated parties will be mandated to provide. Such an arrangement will make it possible to finance the obligation scheme at least partly through the national budget.

b) target sectors;

The obligation will only apply to suppliers of electricity and natural gas. The obligated parties will not, however, be limited to achieving energy savings in their own energy sector but will be free to record savings achieved in any other energy sector, such as, for instance, oil or heating oil. Energy savings in the residential, service and industrial sectors can be taken into account.

Energy savings in the transport sector can only be taken into account to a limited extent.

Making energy savings will lead to the obligated parties incurring additional costs, part of which could be passed on to the final customers, which may lead to a certain increase in the price of electricity and natural gas. In order to avoid distorting competition between different suppliers and different types of energy, we therefore plan to impose a tax or charge on non-obligated suppliers.

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

Based on the final energy sales data available for the years 2010 and 2012, Luxembourg's final overall consumption of energy amounts to an average 50 463 GWh per year.

Taking advantage of the option under paragraph 1 of Article 7 of the Directive to exclude fully from this calculation the sales of energy used in transport, Luxembourg's final overall energy consumption averages out at 19 636 GWh per year.

In line with Article 7, the obligated parties must achieve further savings of 1.5% of overall annual energy sales each year from 1 January 2014 to 31 December 2020, which represents a total overall energy saving of 42% over the entire reference period. The theoretical energy savings objective to be achieved over this entire period is therefore 8 247 GWh (42% 19 636 GWh).

Luxembourg intends to make use of the option offered in paragraph 3 of Article 7, of reducing the volume of energy savings by 25% by availing itself of the exceptions provided for in paragraph 2 of that Article. Accordingly, we plan to exclude the following from the calculation of the energy savings to be achieved:

- part of the sales, by volume, of energy used in industrial activities listed in Annex 1 to Directive 2003/87/EC (Article 7(2)(b)), and
- to permit the progressive application of the energy efficiency obligation scheme (Article 7(2)(a)).

If this option under the Directive is utilised, the energy savings objective for Luxembourg amounts to 6 185 GWh (75% * 8 247 GWh).

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

The energy efficiency obligation scheme shall be set up to run for 7 years, from 1 January 2014 to 31 December 2020. Although a fixed duration has been set for the obligation period, it does not mean that the scheme cannot continue to operated after that time period. The time period has been set merely to simplify the calculation of the extent of the obligation. After 31 December 2020, the government could still decide to continue the obligation by simply adapting the relevant legal and regulatory provisions.

On 1 March of each year, the obligated parties must report on the energy savings achieved during the preceding year.

e) eligible measure categories;

The obligated parties are not limited to their own sphere of activity; they may undertake measures in all sectors (including transport) and involving all types of energy. This flexibility will allow the obligated parties to achieve energy savings with a favourable cost-benefit ratio.

Only energy savings achieved as a result of action by the obligated parties may be recorded. Upon request, the obligated parties must demonstrate that the execution of the energy efficiency measure resulted from or was prompted by action by them.

A catalogue of standard measures is currently in preparation, which will specify the energy savings to be recorded for the measures listed in it. Initially, the catalogue will contain a limited number of measures. In principle, it will be adapted each year to take account of the extent to which the various measures are utilised.

The catalogue will focus on the technical measures whose effects can be easily measured and documented.

Without formally prohibiting them, measures aimed at changing the behaviour of clients or users will be accepted to only a limited extent, as they are difficult to measure and have only a time-limited effect.

The obligated parties will remain free to implement any other energy efficiency measure not given in the catalogue of standard measures. This will give free rein to the obligated parties' creativity in developing original measures. In this case, the obligated parties will be required to document and justify the calculation of estimated energy savings for a measure in accordance with the calculation methodology decreed by the Minister of the Economy.

The obligated parties will be allowed considerable flexibility in terms of the nature of their actions with regard to the end clients. For instance, the obligated parties may grant financial assistance, offer information/consultations/audits or indeed offer a combination of financial assistance and advice.

The obligation scheme planned in Luxembourg will allow the obligated parties to count energy savings achieved through executing parties towards their obligation. Executing parties may, for instance, be fitters, electricians, energy consultants, etc.

If the obligated parties decide to resort to intermediaries to perform measures, arrangements should be made to ensure that the action of the obligated parties has contributed to achieving the energy savings. In this case, the contact between the obligated party and the third party must have taken place before the performance of the measure generating the energy savings.

The obligated parties will be free to choose executing parties either through a tender process or through negotiations and bilateral contracts.

In view of the limited energy market in Luxembourg, we do not envisage establishing a market for energy saving certificates such as those which exist in other Member States. Exchanges or bilateral cessations of achieved energy savings will not, however, be prohibited.

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

Annex V of the Directive leaves Member States the freedom to choose the method for calculating energy savings from among those proposed under point 1, namely:

- (a) deemed savings,
- (b) metered savings,
- (c) scaled savings, and
- (d) surveyed savings.

As mentioned under point e) above, a catalogue is currently in preparation for each standard measure, and this includes the deemed savings (point 1(a)). Luxembourg has enlisted the services of the German institute Fraunhofer ISI and the Danish consultant Ea Analyses to help identify the standard measures to be included in this catalogue and to define, based on knowledge currently available, the savings that could reasonably be expected from the various actions.

For measures not listed in the catalogue of standard measures, Luxembourg will establish a calculation method to evaluate the estimated energy savings due to the action (point 1(b)).

In the declaration which they are required to make to the Ministry of the Economy, obligated parties must mention the type of action undertaken with regard to the end customer, and must confirm that this took place before the implementation of the measure that led to the energy savings. In the event of an inspection, the obligated parties will be required to place all documents demonstrating their leading and incentive role at the disposition of the independent consultancy employed for that purpose.

(g) lifetimes of measures;

Obviously, the lifetime of these measures depends on the nature of the measure in question. In order to simplify the obligations scheme and alleviate the administrative burden, we plan to establish two or three categories of lifetime for measures:

- less than 5 years, from 5 to 15 years, more than 15 years, or
- less than 5 years, from 5 to 10 years.

Thus, for example, measures such as the changing of light bulbs may have a lifetime of less than

5 years, while measures concerning the thermal envelope of a building may have a duration of more than 15 years.

For standard measures, the catalogue shall establish the lifetime to be taken into account. In contrast, if the obligated parties implement measures not provided for in the catalogue, they must indicate and justify the selection of the lifetime from among the two or three admissible categories.

(h) approach taken to address climatic variations within the Member State;

In view of the small area occupied by Luxembourg, no specific measures will be adopted in this area.

i) quality standards;

N/A

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

The parties must draw up an annual account of the savings made in each completed year. This annual report must be compiled by each individual obligated party, and must contain information on the sector, the type of energy, the energy efficiency measure itself, the type of action, the action performed by third parties and also the costs of administration and performance of the action. Standard notification forms will be published on the website of the Ministry of the Economy. Supporting documentation regarding the savings declared must be retained by the obligated parties and produced in the event of an inspection.

A random annual inspection of a representative sample of the energy efficiency measures will at the request of the Ministry of the Economy be carried out by an independent consultancy hired for that purpose.

k) audit protocols; and

N/A

l) how the need to fulfil the requirement in the second subparagraph of Article 7(1) is taken into account.

N/A