



PHASE 3 - latest update

Whether you are a participating organisation subject to the Energy Savings Opportunity Scheme (ESOS) compliance, an ESOS Lead Assessor, a member of an ESOS assessment team or a professional body with a register of ESOS Lead Assessors, the 5th December 2023 has (no doubt!) been marked in your diary since at least the 6th December 2019.

The time in between the two ESOS notification deadlines has been filled with the BEIS's consultation on Strengthening the ESOS, with dissecting and discussing the Government's response to the consultation and waiting for the changes, which as part of the Energy Bill are yet to pass the legislative scrutiny and somewhat clogged up Parliamentary timetable.

With less than six months to the ESOS Phase 3 compliance deadline, a number of key elements, crucial for the ESOS players, require finalisation. The Environment Agency (EA)'s Comply with the ESOS Guidance is in need of an update to reflect the Phase 3 changes, the notification system is being re-designed as we type which means that no notification submissions are possible at present to mention just a few. Undeniably, the missing pieces will fall into place when the regulation completes all the parliamentary stages in both

Houses. Rumours have it, it could be sometime in September or October. So, where does this leave the various ESOS players who rely on guidance to ensure their organisational compliance with Phase 3?

Thankfully, the regulatory approval limbo has been filled with sporadic EA's Newsletters adding some clarity on what is to come, even if not answering the burning question of 'When?'. Drawing on the latest (at the time of writing) [Newsletter¹](#), let us share with you a summary of the update from the Department for Energy Security and Net Zero (formerly BEIS) on ESOS Phase 3 implementation.

Phase 3 ESOS changes - What are they and do you have to comply with them?

ESOS Participants are still required to comply with Phase 3 of ESOS and Government still intend to make the changes announced in the government response to the ESOS consultation. The changes will be subject to legislative scrutiny and timetable, with the enabling primary legislation (the Energy Bill) currently passing through Parliament. Government will update participants when the Energy Bill has received Royal Assent, and the draft regulations are introduced to ensure there is a reasonable amount of time to meet the new requirements.

The changes set out in the government response for Phase 3 are:

- **Requirement for a summary template to include compliance information in the ESOS report**
- **Requirement to submit additional data in the compliance notification (see Table on the next page)**
- **Requirement to include an energy intensity metric in ESOS reports**
- **A change to the de minimis exemption so that participants' Significant Energy Consumption covers at least 95% of their Total Energy Consumption (as compared to 90% in Phase 2)**
- **Requirement for ESOS reports to provide more information on next steps for implementing recommendations**
- **Requirement for participants to set a target or action plan following the Phase 3 compliance deadline, on which they will be required to report against annually**
- **Requirement to share ESOS reports with subsidiaries**

And yes, take these as given and consider them when preparing your ESOS Phase 3 compliance.

ESOS Guidance for Phase 3 to be published after the new ESOS regulations have been approved

Final guidance will be published on GOV.UK once the new ESOS regulations have been laid in Parliament. This will happen after the Energy Bill, which contains the regulation making power, has been passed by Parliament. The Environment Agency / Department for Energy Security and Net Zero (DESNZ) will communicate via newsletters and other communications before final publication of the guidance to make you aware of the changes to the scheme to enable quotations and to allow assessors to carry out assessments before the compliance deadline.

Summary report template for submitting reports to the Environment Agency – THE TEMPLATE that everyone has been after

A table has been provided by the DESNZ and is shared below setting out the information that will need to be notified to comply with the expected Phase 3 requirements, subject to Parliamentary approval of the legislation. The idea is that the listed information will be required to input into the new notification system (when available) and any specified format for providing the information in the table will be finalised and published once the new ESOS regulations are laid. Details will be provided on how to submit the notification on the new digital service currently under development.

Information to be provided	New Phase 3 requirement	New reporting requirement (collected but not reported in Phases 1-2)
1. Responsible undertaking information		
Name, address, contact details and company registration number of organisation		
Details of global parent and relevant trusts		
Standard Industrial Classification (SIC) code(s) of the responsible undertaking	✓	
Reason for qualification in ESOS in Phase 3 (i.e. based on employee numbers, turnover, balance sheet or inclusion in corporate group)	✓	
2. Corporate group information		
Number of undertakings in the notification		
Names and company registration numbers (where applicable) of all undertakings covered by the notification	✓	
Details of any agreement to consolidate or disaggregate corporate groups (including franchises) and details of any changes to corporate groups		
Additional information on corporate group structure, for example a chart that sets out the structure etc of the group and information on e.g. what type of control	✓	
Standard Industrial Classification (SIC) code of other undertakings in the corporate group, where different to the responsible undertaking	✓	
3. Responsible officer details		
Name, position and contact details (not to be published)		
Confirmation that they have reviewed the results of the assessment and that the organisation has met scheme requirements		
Confirmation that results of the energy audit or alternative compliance route have been shared with subsidiaries		
4. Lead assessor and other assessors		
Name of lead assessor (not to be published)		
Relevant approved register		
Whether the lead assessor is employed by the participant (or participant group)	✓	
Names of other personnel who have carried out site visits, gathered data and/or drafted parts of the report (not to be published) and whether they are employed by the participant (or participant group)	✓	
5. Use of alternative compliance routes, estimates and sampling		
Use of alternative compliance routes, where applicable		
Notification of estimates used for calculating energy consumption, where applicable		
Notification that the energy audit does not include an analysis based on energy consumption profiles, where applicable		
Details of site sampling – number of site visits, proportion of total and rationale for method	✓	
6. Energy consumption information		
Total Energy Consumption (TEC) in kWh Plus a breakdown in kWh by fuel type and use category (buildings, transport or industrial processes)		✓

Significant Energy Consumption (SEC) in kWh (based on de minimis of 5%) Plus a breakdown in kWh by fuel type and use category (buildings, transport or industrial processes)		✓
If ISO 50001 certification is used, an explanation of how certification scope matches (or otherwise) the scope required by the Significant Energy Consumption and what proportion of the SEC is covered by ISO 50001	✓	
An energy intensity ratio (see Q5 above) for each of buildings, transport and industrial processes and information on estimates used Any additional ratios the organisation elects to include	✓	
7. Energy savings opportunities identified		
Total estimated energy savings in kWh from energy savings opportunities identified in Phase 3, through the energy audit and/or alternative compliance routes		✓
A breakdown in kWh of the opportunities identified by: • organisation (for group level reports); • use category (buildings, transport or industrial processes); and • type of opportunity (data quality, energy management practices, behaviour change interventions, training, controls, zero/low cost measures, short-term investments paying back in 3 years or less, longer term investments paying back in more than 3 years)	✓	
Total estimated savings in kWh achieved by the organisation during Phase 3 (i.e. since the previous ESOS compliance deadline) This can be from opportunities identified through ESOS reports, through alternative compliance methods, or through any other means unrelated to ESOS. The estimation of energy savings can either be based on the original estimate in the ESOS report or alternative compliance method, on a subsequent more detailed feasibility study, or by a post-hoc analysis of savings achieved. It should be stated which is used.	✓	
A breakdown in kWh of the savings achieved by: • organisation (for group level reports); • use category (buildings, transport or industrial processes); and • type of opportunity (data quality, energy management practices, behaviour change interventions, training, controls, zero/low cost measures, short-term investments paying back in 3 years or less, longer term investments paying back in more than 3 years)	✓	
8. Implementation considerations and government support		
Details of government support received in relation to investments in energy efficiency and/or carbon emissions	✓	
Details of implementation considerations (see Q7 above)	✓	
9. Historic information from Phase 1 and 2 of ESOS (where the participant was required to comply in these phases)		
Total Energy Consumption (TEC) in kWh for each of Phases 1 and 2 Where this is available, broken down by use category (buildings, transport or industrial processes)	✓	
Significant Energy Consumption (SEC) in kWh for each of Phases 1 and 2 Where this is available, broken down by use category (buildings, transport or industrial processes)	✓	
Total estimated energy savings in kWh from energy savings opportunities identified in the ESOS report or alternative compliance method for each of Phases 1 and 2. Where this is available, broken down by use category (buildings, transport or industrial processes)	✓	
Where this is available, total energy savings in kWh achieved in each of Phases 1 and 2	✓	
Voluntary additional information to describe any changes to the organisation between Phases 1,2 and 3	✓	

Table: The table sets out the information that will need to be notified to comply with the expected Phase 3 requirements. Where kWh is mentioned above, participants can use more other Wh units e.g. MWh, GWh or TWh where appropriate.

Notifications for Phase 3 cannot be submitted yet

Until the Phase 3 requirements have been finalised in legislation and the updated IT system which is currently being developed has been appropriately tested, the Phase 3 notifications cannot be submitted. The notification system will be made available in time to enable participants to meet notification requirements.



Metrics for ESOS reporting and how they relate to metrics required for Streamlined Energy and Carbon Reporting (SECR)

The Government Response to the ESOS consultation stated that Government will require ESOS reports to include an overall energy intensity ratio in terms of kWh/m² for buildings, kWh/unit output for industry and kWh/miles travelled for transport.

- For buildings, the metric should use Gross Internal Area (GIA)
- For transport the metric should use kWh/person mile for passenger transport and kWh/tonne mile for freight
- For industrial processes the metric should be based on kWh per measure of production output. Use mass (ie kWh/tonne) if possible. Alternatively, if this is not an option you can use volume (ie kWh/litre) or unit (kWh/unit) whichever is the most relevant to the process
- In addition, please provide a measurement of overall energy intensity in terms of turnover (ie kWh/£)

Government will provide more detailed guidance following legislation. Organisations may choose to provide additional metrics, for example providing a more detailed breakdown by fuel type. Organisations should bear in mind that whatever metric is chosen for Phase 3 should be reported against in future phases, as one of the purposes of the metric is to allow comparisons to be made between phases. If organisations need to use estimates to calculate

metrics (for example to estimate missing floor area data or estimate the energy split between buildings and processes), details should be kept in the evidence pack.

The intensity ratio required for SECR is a similar kind of metric as this compares emissions data with an appropriate business metric or financial indicator, such as square metres of floor space or sales revenue. However, the SECR



metric relates to greenhouse gas emissions, while the ESOS energy intensity metric would relate to energy consumption.

Significant Energy Consumption (SEC) de minimis change

Changes to the SEC de minimis mean that organisations must calculate areas of SEC that cover at least 95% of a participant's total energy consumption, rather than 90% as currently referred to in regulation 25 of the current ESOS Regulations. This is to reflect a reduction to the de minimis exemption from 10% to 5%.

This change was set out in the Government Response to the ESOS consultation of 28 July 2022, but the final guidance will not be provided until the Parliamentary process for new ESOS regulations is complete.

Information requirements for next steps

When providing information on next steps (referred to as 'implementation considerations' in the Table), ESOS reports should cover considerations relating to how the opportunities identified could be implemented. ESOS reports should:

- Provide an indicative programme of options which combines a selection of options recommended in the ESOS report and outlines the combined costs, benefits and payback period for the package
- Suggest appropriate intervention points for any opportunity identified which is not suggested to be implemented immediately. This could be for example when renewing a transport/equipment lease or when replacing existing equipment
- Signpost where buildings covered by the report are also covered by the Minimum Energy Efficiency Standards (MEES) for non-domestic buildings and whether this is relevant to the recommendations in the report (for example where there may be a requirement on landlords to carry out work that would affect a recommendation)
- Provide information on government schemes which could support businesses to implement energy savings opportunities recommended in the report

Where relevant –

- Include information on financing options to implement energy savings opportunities
- Include information on how building, transport or equipment leases can affect an energy savings opportunity identified in the report
- Provide detailed guidance on what actions to take next, where this is useful for the organisation e.g. what type of contractor, and terms of reference, might be required to implement recommendations

This information is expected to be required for both participants that commission energy audits and those that use the alternative compliance routes. For participants using an alternative compliance route that do not have a dedicated ESOS report, this should be recorded in the evidence pack.

Action plans

The action plan does not need to be completed until after the compliance deadline and is expected to be required by December 2024. The details on how to complete the action plan will be published in final guidance on GOV.UK once the new ESOS regulations have been laid in Parliament in advance of the Phase 3 compliance deadline.

ESOS reporting to subsidiaries

Where an ESOS participant is part of a corporate group, the 'responsible undertaking' that is responsible for ESOS compliance for that corporate group will be required to disseminate certain relevant information contained in the ESOS report, or the whole of the report, to subsidiary undertakings within the corporate group

and to report that they have done so. There may be some cases where information in the ESOS report cannot be shared without breach of another legal obligation. Participants should seek their own advice as to whether this is the case and, if so, may be able to redact or summarise parts of the report so as to avoid such breaches.

The information received by the subsidiary in relation to the ESOS report should be at a minimum:

- Details of any site visits, data gathered or energy consumption profiles specifically for that subsidiary
- Relevant energy savings opportunities for that subsidiary, either specifically or as part of a general recommendation across multiple parts of the organisation
- Costs and benefits of such opportunities
- Implementation considerations relevant to those opportunities (as set out in answer to Q8 about next steps)

PAS 51215 requirements for Phase 3

In the Government Response to the

ESOS consultation it was set out that any net zero reporting would be voluntary for Phase 3. In the response Government outlined the intention to develop a PAS standard to cover the additional net zero requirement that is intended to be introduced for Phase 4 of ESOS and BSI consulted on this standard (PAS 51215-1) from 6 February to 20 March 2023. Using this PAS will not be required for Phase 3, though participants may use it on a voluntary basis.

There is no question about it; the wait for the ESOS changes to go through the Parliamentary scrutiny continues. But while the regulation might be set in stone only a few weeks ahead of the Phase 3 deadline, you can get ready and act now. Read all the available information carefully and prepare your organisation or client thoroughly. For those who have already completed some or all of the work for Phase 3, do revisit it now, you have been equipped with some more detail. Lastly, don't forget to keep an eye on any further announcements from the Environment Agency and DESNZ.

Source: The information shared in this article is based on the [Environment Agency's ESOS Newsletter – May 2023 \(Issue 12\)](#)



ENERGY SAVINGS OPPORTUNITY SCHEME

Phase 3 Compliance - how to get it right

At the time of publication of this issue, the Energy Savings Opportunity Scheme (ESOS) participants have less than 9 months to comply with ESOS by 5th Dec 2023. Whilst awaiting the Parliamentary approval of the changes to the ESOS regulation outlined in the **Government Response** to the consultation on strengthening ESOS, the work is being completed on the development of the Energy and net zero assessment process specification (PAS 51215-1) and Energy and net zero assessment competencies of lead assessors and assessment teams (PAS 51215-2), as well as a new ESOS Notification System solution which will include additional features to enable the implementation of new requirements in compliance period 3.

Considering the timelines, it would be an understatement to say that keeping abreast with the developments and at the same time ensuring compliance will be difficult. Two of the EMA ESOS Lead Assessors share their views on where the focus should be to stay on top of ESOS and getting it right in the coming months.



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With the ESOS Phase 3 deadline of 5th December 2023 fast approaching, the upcoming 9 months are a vital period for ESOS participants and ESOS Lead Assessors. Whilst it is important to meet the 2023 compliance deadline, there should also be a focus on submission quality and getting it right.

At the time of writing, updated guidance for Phase 3 changes by the Environment Agency is yet to be published, which has resulted in some

ambiguity and lack of clarity in some of the proposed areas of change. This is particularly true for those participants who have already begun or wish to begin compliance activities.

Without official guidance on Phase 3 changes being published, Lead Assessors might be wise to work towards rumoured changes to prevent redoing works already completed or that are underway. We can reflect on previous phases to improve overall submission quality and avoid non-compliance. The Environment Agency's January 2023 newsletter, highlighted that within Phase 2 Evidence Packs, the following key issues were identified as often requiring corrective action:

- Organisation Structure
- Total Energy Consumption & Significant Areas of Energy

Consumption

- Sampling Approach
- Quality of ESOS Energy Audit & Energy Savings Opportunities

The first two points in particular, form elements of the ESOS report that could be perfected within the initial data processing and early-stage discussions with the participant, before any Energy Assessments are even undertaken. This highlights the importance of meeting with the participant to ensure familiarity with their organisational structure, context, boundary of the assessment and agreeing the overall approach. After calculating a participant's Total Energy Consumption, it is important to carefully consider the energy which will be included within the Significant Areas of Energy Consumption. This will subsequently inform the energy

excluded within the 5% de minimis; although this level of de minimis has been mentioned, there are no formal guidelines published yet.

The final two points highlight that some Phase 2 Energy Audits and Energy Savings Opportunities did not meet a sufficient standard and quality. The Environment Agency currently provides guidance on the steps required to produce compliant energy audits, and these should be implemented, where reasonably practicable. The Environment Agency are also proposing that auditing standards such as ISO 50002 or EN 16247 will be a requirement from Phase 4 onwards. To ensure best practise in Phase 3 and to ease transition into Phase 4, ESOS Lead Assessors should consider if their current methodologies align with these standards. Current auditing methodologies and the skillsets of other non-Lead Assessors in the team should also be reviewed, to ensure their audit quality aligns with that of the Lead Assessor and meets the required standards. These reviews should ideally be completed before audits are undertaken.

Another area which could be considered a key part of the ESOS

Energy Audits is the use of energy consumption profiling. Static, time or time interval profiles provide a breakdown of how energy is used by a particular asset or activity and how that energy use varies. Inclusion of as many profiles or data analyses as possible strengthens the audit quality and can also help to identify further energy saving opportunities once reviewed. This can include identifying patterns in half hourly data showing shift patterns, seasonal changes or implementation of energy saving measures.

ESOS is often seen as a compliance 'tick box exercise' by some participants, however the scheme does present a brilliant opportunity to examine a participant's business where positive changes and energy reductions can be implemented. To get ESOS right, ESOS Lead Assessors should correctly report on the identified areas that bring about non-compliance, as identified by the Environment Agency's audits above. Better quality ESOS reports are likely to encourage participants to implement the energy saving opportunities presented, and to take responsibility of their emissions – something that is ultimately required

if the UK economy is to reach Net Zero by 2050. ESOS Phase 3 provides an excellent time to coincide mandatory compliance together with energy saving implementation – both for business' pockets, and our precious environment.

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ESOS is the UK government's implementation of the EU Energy Efficiency Directive (2012/27/EU). The scheme is mandatory for large UK businesses and administered by the Environment Agency (EA). Full

guidance on ESOS can be found on GOV.UK website, the [Energy Savings Opportunity Scheme \(ESOS\)](#) and [Comply with the Energy Savings Opportunity Scheme \(ESOS\)](#).

Although the ESOS regulation came into force in 2014 (ESOS Phase 1), some organisations do not understand



what it is and what it takes to comply, either due to their businesses recently being newly subject to ESOS as a result of expansion or not realising they were subject to ESOS until a non-compliance notice was served to them.

In any case, ESOS has evolved since its inception with the greatest changes being in Phase 3. The EA is stricter in demonstration of compliance and

date is on 5th December 2023, it is advisable to kickstart the process as soon as possible, to allow sufficient time to accommodate announced (although not yet confirmed) ESOS reforms. Some of the points for consideration are:

- All private organisations with at least 250 employees OR annual turnover in excess of £44 million, and an annual balance sheet total in

- The ISO 50001 energy management standard will still have automatic compliance with ESOS

(ii) Ensure your data is accurate and verifiable

12 consecutive months of verifiable energy consumption data is required to establish the total energy consumption (TEC), the significant energy consumption (SEC) and

the de-minimis. Explanation must be provided in the evidence pack if less than 12 months data has been used.

Put a system in place for obtaining the required energy data and book an energy audit if your route to ESOS compliance requires one.

(iii) Ensure the conformity of your energy audit

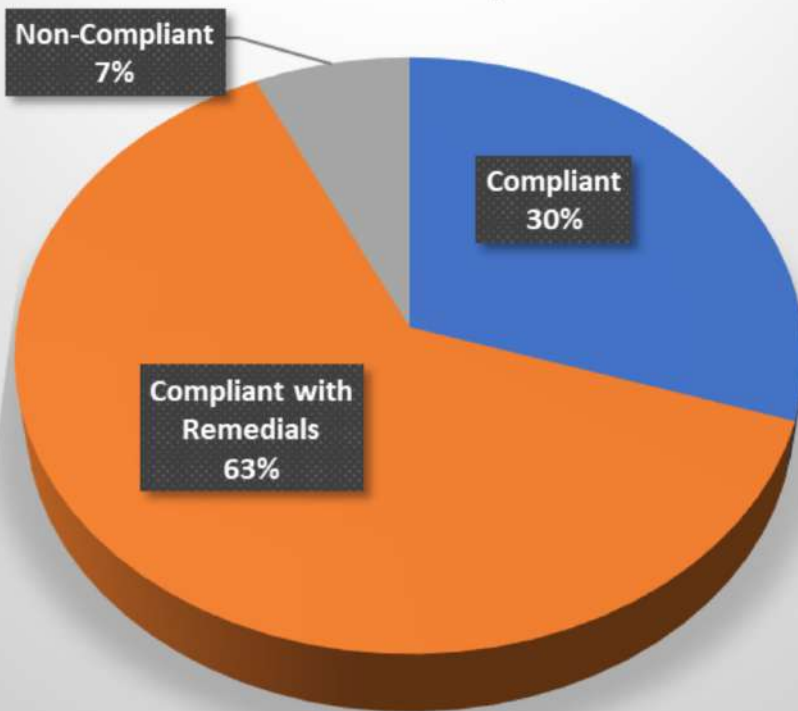
Route to compliance can be through the ISO 50001 energy management standard or energy audit. If your route to ESOS compliance is energy audit, ensure

your audit methodology conforms to BS EN 16247-1 or ISO 50002.

(iv) Choose an experienced ESOS Lead Assessor

Given the Environment Agency's published report on companies subject to ESOS in Phase 2 (chart above), it is more important than ever to choose an experienced ESOS Lead Assessor to ensure your ESOS

ESOS Phase 2 Compliance Audits



Source: Environment Agency, ESOS Newsletter, Issue 11, January 2023

getting it right first time is the best approach, saving time, money and reputation. In Phase 2, a staggering 63% of companies had corrections or remedial actions following audit by the Regulators before they could be accepted as compliant. To get it right first time, you need to:

(i) Start early

Although ESOS Phase 3 compliance

excess of £38 million, are subject to ESOS

- Significant energy consumption de minimis to be reduced from 10% to 5%
- Energy Intensity Metric to be required in the ESOS report
- Detailed 'next steps' on the recommendations to be required in the ESOS report

compliance. You can use the approved registers of ESOS Lead Assessors to select one. An experienced ESOS Lead Assessor will help interpret the Phase 3 requirements and provide the support needed for ESOS compliance.

Key dates for ESOS Phase 3:

- Twelve months energy data, which MUST include data for the ESOS Phase 3 qualification date (31st December 2022)
- ESOS compliance notification MUST be submitted to the Environment Agency by the ESOS Phase 3 compliance date (5th

December 2023)

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BECOME AN ESOS LEAD ASSESSOR

EMA 4-STEP APPROVAL PROCESS:

- APPLICATION PACK
- BECOME AN ESOS LEAD ASSESSOR COURSE
- WRITTEN ASSESSMENT
- PEER REVIEW INTERVIEW



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