ESOS Phase 3 by Owen Jones, principal consultant, JRP Solutions

Environment analysis: Owen Jones, principal consultant at JRP Solutions considers what the Energy Savings Opportunity Scheme (ESOS) is, when Phase 3 of ESOS commences, the planned changes in Phase 3 following the recent consultation on ESOS and if there are any additional changes planned for Phase 4, with the timings and the next steps noted.

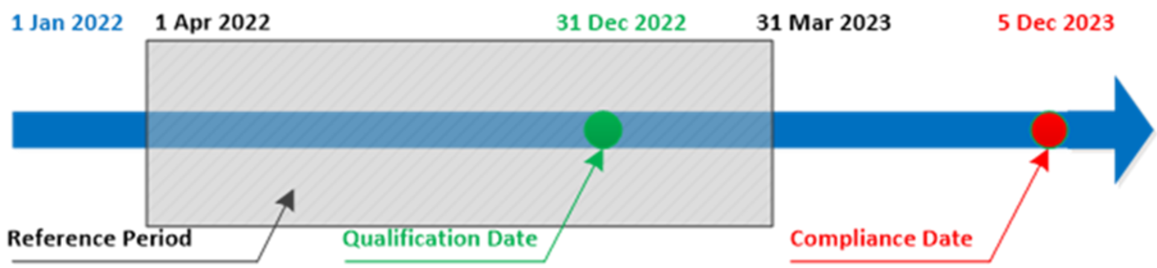
This analysis was first published on Lexis®PSL on 22 September 2022 and can be found here (subscription required).

1. What is ESOS?

ESOS (the Energy Saving Opportunities Scheme) was first introduced in 2014 as the UK enactment of Article 8 the EU Energy Efficiency Directive, and phases 1 and 2 have already been completed.

Compliance with ESOS is required in four yearly phases for large undertakings that meet certain criteria. If a legal entity has more than 250 employees, irrespective of contracted hours, or a turnover over £44m and a Balance Sheet over £38m then they are required to comply with ESOS Phase 3. If one legal entity within a UK organisation meets the criteria then the whole UK organisation must comply, including all UK based parent and group companies, even if linked only by an overseas parent.

The qualification criteria are assessed on a 12-month period that includes the **qualification date, 31 December 2022** and notification of compliance needs to be submitted to the Environment Agency by the **compliance date, 5 December 2023**.



ESOS requires organisations to collate total annual energy consumption for a 12-month period that includes the qualification date and identify opportunities for energy reduction. Audits need to be undertaken to cover a representative sample of **95%** of the energy used by the organisation. These audits need to be approved by a qualified ESOS lead assessor. Organisations covered by either ISO50001 or Display Energy Certificates (DECs) can use these to comply.

2. When does Phase 3 of ESOS commence?

Phase 3 of ESOS has already started. From the end of Phase 2, on 5 December 2019, organisations can start to conduct the energy audits required for Phase 3 compliance, if they are confident they will need to comply.

However, many organisations have tended to leave action until the compliance year (2023 for Phase 3), which then causes problems with finding a qualified lead assessor and getting the required audits done in good time. Data for the reference period cannot be finalised until after the qualification date on 31 December 2022 but it is strongly recommended that data collection commences as early as possible in 2022, if data is not already being regularly collated.

3. What changes are planned in Phase 3 following the recent consultation on ESOS?

The response from the government has been measured to minimise the impact on Phase 3 compliance and most of the changes are still subject to parliamentary approval and official guidance has not been published. Changes may include:

- significant energy consumption de minimis being reduced to 5% from 10% in Phase 3
- more detailed next steps in reports to maybe include possible funding options
- clients needing to share reports with subsidiaries and sites
- recommending that net zero is included but not mandatory with a new net zero report standard to be issued in early 2023
- some additional standard details being required to be included in ESOS reports as follows:
    - corporate structure including highest UK parent and/or non-UK parent, company registration numbers and industry SIC codes
    - reason for qualification (no employees/turnover and balance Sheet)
    - route to compliance (ISO50001, energy audits, DECs)
    - ESOS lead assessor details and details of other auditors/report writers or others involved in the audit
    - Total Energy Consumption (TEC), Significant Energy Consumption (SEC) and de minimis values
    - details of how ISO50001 scope matches audit requirements for the SEC, if applicable
    - 12 months of data and data profiling or if not, why not or how estimated
    - half hour data analysis (if data is available)
    - number of sites and rational for sampling methodology (with more prescriptive guidance to be issued on requirements for sampling based % sites and SEC audited sites)
    - main findings of the survey including total predicted savings and actions taken since last ESOS
    - confirming sign off is by an Executive Director of the UK parent as registered at Company's House
    - including an energy metric in reports

Many of the reporting changes are just embedding best practice in the guidance and should mostly have been included previously, if a good quality lead assessors and auditors have been employed.

There are certain changes the consultation states as are to be 'Taken Forwards'. As such these may or may not be implemented for Phase 3:

- tightening up on Lead Assessor and awarding bodies. Looking at ways to improve specific sector knowledge and sanction poor performing assessors
- participants need to justify choice of lead assessor based on appropriate skills or knowledge
- the Environment Agency to publish a suggested 'Recommendations Template'

- additional data submission required on submitting compliance to include energy metrics

4. Are any additional changes planned for Phase 4?

More wide-reaching changes are expected for Phase 4 with the main changes being:

- qualification will be ONE of the following 250 employees, £18m balance sheet or £36m turn over. This will pull more organisations into ESOS
- net zero is to be part of the ESOS report—this could significantly increase the work required
- a consumption threshold is to be introduced which may result in low energy using organisations no longer qualifying for ESOS
- recognised standards for audit reports will be required eg ISO 50002 or EN 16247
- the ESOS report must give explicit advice on data collection, automated monitoring and targeting (aM&T) of energy, equipment controls and settings and staff training and awareness
- exemption through DECs and Green Deal Assessments (GDA) will no longer be allowed
- the qualification date is to be brought forward to allow more time for compliance
- consideration will be given to rewarding early compliance
- ESOS recommendations to be aligned with net zero ambitions—a new standard on net zero reporting is to be created to facilitate this and is planned for publication in early 2023
- net zero adaptation and resilience are to be considered in ESOS recommendations
- targets or action plans are to be created and published based on ESOS findings
- a requirement to report annually, either via Streamlined Energy and Carbon Reporting (SECR) or an ESOS portal, if targets or action plan have been met

It is suggested, though not mandatory, that the changes for Phase 4 should be included in Phase 3 as best practice.

5. What are the timings and next steps?

Organisations that are likely to need to comply with ESOS Phase 3 are strongly recommended to act quickly to engage a qualified Lead Assessor.

Step 1
- Check qualification

Step 2
- Identify organisational structure

Step 3
- Collate energy date for the 12 month Reference Period which needs to include the Qualification Date of 31st December 2022

Step 4
- Appoint a suitably qualified Lead Assessor to complete an audit of how 95% of energy is used (this can be done now)

Step 5
- Check report and ensure Director(s) read and sign it

Step 6
- Notify the Environment Agency before 5th December 2023