



Crown
Commercial
Service

Procurement Policy Note – Implementing Article 6 of the Energy Efficiency Directive: further information

Information Note 01/15 19 January 2015

Issue

1. This Procurement Policy Note (PPN) provides practical advice on implementing government's obligations under Article 6 of the Energy Efficiency Directive 2012/27/EU on energy-efficient public procurement ("Article 6" and "the Directive") further to the policy position and interpretation set out in [PPN 07/14](#) of 3 June 2014.

Dissemination and Scope

2. The contents of this PPN apply to all public bodies in scope of Article 6. This means all Central Government Departments including Non-Ministerial Departments, Executive Agencies, and Non-Departmental Public Bodies (NDPBs). Together these are referred to in this PPN as 'In-Scope Organisations'.
3. The Governments of Scotland, Wales and Northern Ireland have issued similar administrative directions to PPN 07/14, and will be issuing separately further guidance applying to their administrations.
4. Please circulate this PPN within your organisation, drawing it to the attention of those with a purchasing role.
5. Article 6 does not require other public bodies, including local and regional government, to meet the same requirements as those required of In-Scope Organisations. However, such bodies are encouraged in the directive to follow the example of central government. In-Scope Organisations are asked to support the application of Article 6 by regional and local bodies associated with them, for example, through sharing their own best practice.

Timing

6. Article 6 of the EED came into force on 5 June 2014 and was implemented through PPN 07/14.

Interpretation of qualifications

7. The obligation under Article 6 is a qualified one. Contracting authorities need only buy to the standards set out in Annex III of the Directive where this is cost effective (achieves value for money considering operational and end of life costs as well as upfront costs), and is consistent with considerations as to economic feasibility, wider sustainability, technical suitability and ensuring sufficient competition. As contracting authorities are expected to take into account operational energy related costs, as part of routine tender and contract management processes, taking into account these qualifications when implementing Article 6 is not considered to be a major change. It is the contracting authority's responsibility to satisfy itself that relying on the qualifications in any specific circumstances is justifiable. The [EC Guidance note to Article 6](#) sets out the Commission's interpretation of these qualifications.

Further information

8. It is the responsibility of each In-Scope Organisation to ensure its own compliance with the directive. In doing so they should have in mind the policy set out in PPN 07/14 and the questions and answers in the attached annex.

Contact

9. Enquiries about this PPN should be should be directed to the Crown Commercial Service Helpdesk (telephone 0345 410 2222, email info@ccs.gsi.gov.uk).

Annex

Q&A Information notes

ANNEX: Q&A INFORMATION NOTES

Q1. When did the EED Article 6 come into effect and how does it affect existing procurements?

Article 6 of the EED came into force on 5 June 2014 and was implemented through PPN 07/14.

Article 6 applies to **purchases** made on or after 5 June 2014, rather than to tenders issued after that date.

- Article 6 **does not** apply to orders for goods and services covered by the EED where those orders were placed before 5 June 2014.
- Article 6 **does** apply to orders for goods and services covered by the directive where those orders were placed on or after 5 June 2014, even if those orders are made under a contract that was concluded before 5 June.

Q2. Do existing Framework contracts have to be amended in order to comply?

Not necessarily. Although the provisions of Article 6 apply to call off orders placed after 5th June, it will depend upon the terms and conditions of the framework contract as to whether any amendments are required. For example, many framework contracts will allow for specifications to be updated to take account of technical and/or legal developments during the term of the agreement. Contracting authorities should take legal advice in individual cases where necessary.

Q3. What energy standards must be specified for which products?

In-Scope Organisations must carry out their procurement of the products below in accordance with the following energy efficiency standards, as listed in Annex III to the Directive.

- a) Product types for which there are **Energy labels** i.e. products listed in the [Energy Information Regulations 2011/SI/1524](#) (as amended): (also known as the Energy Labelling Regulations) only those products which have the highest level energy efficiency class may be purchased.
- b) Product types not covered at (a) but listed in the [Ecodesign for Energy related products Regulations 2010/SI/2617](#) (as amended) (also known as 'Ecodesign Regulations'): only products that comply with the relevant energy efficiency benchmarks set out in the relevant product specific EU regulations may be purchased.
- c) **ICT product types** that are listed in Annex C of the [Energy Star Decision 2006/1005/EC](#): only products that meet or exceed the standards set out in the Decision as amended by [Decision 2009/489/EC](#) may be purchased.
- d) **Tyres**: only products with the highest fuel energy class defined by [Regulation \(EC\) No. 1222/2009 on the labelling of tyres](#) may be purchased, subject to any requirements to meet the

highest wet grip class or external rolling noise class, where this is justifiable on safety or public health grounds.

- e) **Buildings:** Only buildings that comply with the minimum standards that are set out in Annex 2 of PPN 07/14 of 3 June 2014 may be purchased or rented, except where buildings are purchased for deep renovation, demolition, or for resale without being used for an In Scope Organisation's purposes, or to preserve listed buildings.

The duty to apply these standards is subject to the overarching exemptions and qualifications in the Article. Contracting authorities are also reminded that Article 6 sets a minimum standard, not a maximum, and they can buy more energy efficient products if they choose to do so, in line with value for money principles.

Q4. Is there a specific list of what products are covered by the different Annex III standards?

As a further guide, the appendix to this note lists products falling under the individual provisions in Annex III to the Directive, as at June 2014.

Q5. What standards should be specified for ICT products covered by both Ecodesign regulations and Energy star?

Article 6 does not set out the priority where there is an Ecodesign benchmark for a product which is also covered by Energy Star. Of the two, the higher standard should normally apply. However, if the higher standard makes a product too expensive taking into account whole life costs as well as economical feasibility (upfront costs), contracting authorities should seek to achieve the next best standard, consistent with a value for money approach.

Q6. What exemptions apply?

There are three main exemptions. These are:

- a) **Minimum Cost thresholds.** The duty on central government under Article 6 only applies to contracts above or at the cost thresholds set out under Article 7 of Directive 2004/18. These are set out for England, Wales and NI in regulation 8 of the Public Contracts Regulations 2006, www.legislation.gov.uk/ukxi/2006/5/regulation/8/made. These thresholds will change when the new Public Contracts Regulations come into force. In respect of service contracts, it is where the value of the service contract as a whole, not the cost of the products, is higher than the threshold that the Article 6 requirements apply.
- b) **Purchasing for the armed forces.** Contracts relating to the armed services are exempt if:
- (a) the application of Article 6 would be in conflict with the nature and primary aim of the armed

forces; or (b) the contract is for the supply of military equipment as defined by Directive 2009/81/EC.

- c) Contracting authorities may give priority to the **overall energy efficiency of product packages** over the efficiency of individual Energy labelled Products.

Q7. How will Article 6 be enforced?

Those who believe that Article 6 has not been applied correctly, including unsuccessful tenderers, may choose to challenge the conduct of the procurement. The remedy for non compliance would be through [judicial review](#) , against the relevant public authority, in relation to the individual procurement exercise. The Commission may also infract the UK if the Article is not properly applied.

Q8. How does Article 6 affect service contracts?

The Directive applies to services procured by government that use energy-using products (for example, cleaning and IT contracts) where such products are newly purchased by service providers partially or wholly for the service in question. It is for contracting authorities to decide the extent to which such products would fall under the qualifications as to achieving value for money, economic feasibility, wider sustainability, technical suitability and ensuring sufficient competition.

In some cases a procuring authority will know from its market engagement that products that meet the Annex III requirements are also cost-effective. However in others this may not be certain. In those cases, a passable approach is for contracting authorities to ask service providers to bid for contracts, setting out the standards in Annex III of the Directive which they will meet (or exceed if that is more cost effective), and where they will not meet them, giving a reasonable explanation for this with reference to the above qualifications and setting out any relevant calculations. If the contractor does not give a reasonable explanation, then their bid would not meet the technical specification. Contracting Authorities may wish to include in their evaluation criteria a weighting to encourage bids that meet the Annex III standards. The weighting should broadly reflect the extent to which energy-using products make up a key part of the contract as well as the priority given by the contracting authority to such products.

Q9. What is the status of domestic Government Buying Standards following implementation of Article 6?

Defra has to date developed a set of “Government Buying Standards” (GBS), which are mandatory minimum and optional best practice sustainability standards for a variety of products including some

but not all energy-using products. These GBS have energy efficiency criteria and in some cases additional non-energy related criteria (for example, the current GBS for dishwashers sets out water use criteria). The GBS remain valuable as they set out a minimum standard and have wider coverage. They are referred to in existing contracts and policy instruments (for example the Greening Government Commitments).

In respect of many energy-using products, the energy usage requirements of the GBS will be matched or superseded by the requirements of the EED. Where this is the case, energy-using elements will be removed from the published standard on a rolling basis and replaced by a cross reference to the Directive. Any non-energy using elements (for example, water use, CFCs, etc.) will be retained. In the meantime, contracting authorities should require suppliers to meet the standards in Article 6 in respect of the energy using characteristics of those products.

Q10. Does Article 6 set requirements for market engagement?

There is no legal obligation to ensure that suppliers are aware of the new requirements. However, Article 6 is intended to send a clear message to the industry that will lead to investment and greater competitiveness in respect of those products. In-Scope Organisations are therefore expected to make suppliers aware of the new requirements as part of routine market engagement activity, for example, through meet the buyer events. The Government's Lean sourcing process requires effective pre procurement market engagement as part of its standard approach.

Q11. What requirements are there to monitor and report implementation of Article 6?

There is no obligation to report on implementation, though contracting authorities may wish to put their own processes in place.

Q12. What additional support and advice on Article 6 will be made available?

This PPN has been produced with the input of a number of contracting authorities. It is anticipated that it will be updated in the light of further user experience and need. It is intended that further guidance is co-created by practitioners, and contracting authorities are therefore encouraged to share experience and best practice through existing channels such as the Greening Government Commitment Practitioners' Forum by emailing gbs@defra.gsi.gov.uk.

. Appendix

This is the list of products covered at the time of issue of the PPN. These products and standards will vary over time, as products covered by the various provisions in Annex III and the standards within them develop.

Category / product type:	Annex III (a): Energy Labelling ¹ Regulation applicable/ expected	Annex III (b): Ecodesign ² Regulation applicable/ expected	Annex III (c): Energy Star applicable	Comments / Other applicable Minimum standards
Heating and water heating equipment				
Boilers and combi-boilers	EU/811/2013	Yes – see www.energystar.gov		• GBS in place
Water heaters and storage tanks	EU/812/2013	Yes - see www.energystar.gov		
Electric motor systems				
Electric pumps	None expected.	EU/547/2012	n/a	
Fans	EU/626/2011	Yes - see www.energystar.gov		
Pumps for private and public waste water & fluids with high solid content	None expected	To be considered as part of review of motors regulation	N/A	
Pumps for private and public swimming pools, ponds, fountains, aquariums and clean water	None expected	To be considered as part of review of motors regulation	Yes - see www.energystar.gov	
Motors outside the scope of the Regulation on electric motors	None expected	To be considered as part of review of motors regulation	N/A	
Compressors	None expected.	To be considered as part of review of motors regulation	N/A	
Lighting in both the domestic and tertiary sectors				
Domestic lighting (I) –	EU/874/2012	EU/1194/2012	Yes – see www.energystar.gov	• To be reviewed in 2014 • GBS in place
Domestic lighting (II) – reflector lamps and luminaires	EU/874/2012	EU/1194/2012	Yes – see www.energystar.gov	• GBS in place
Tertiary lighting (I) – lamps and ballasts	Yes – expected EU/874/2012		Yes – see www.energystar.gov	• To be reviewed in 2014. • GBS in place
Tertiary lighting (II) – luminaires or lighting systems	EU/874/2012		Yes – see www.energystar.gov	• GBS in place
Domestic/ professional appliances				
Professional refrigeration (display cabinets and vending machines)	None expected	Waiting for agreement – 2014	Yes - see www.energystar.gov	• GBS in place
Domestic refrigeration • http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010R1060:EN:NOT • <a #"="" href="http://eur-</td> <td>EU/1060/2010		Yes – see www.energystar.gov	• To be reviewed in 2014. • GBS in place	

¹ <https://www.gov.uk/the-energy-labelling-of-products>

² <https://www.gov.uk/placing-energy-related-products-on-the-uk-market>

Category / product type:	Annex III (a): Energy Labelling ¹ Regulation applicable/ expected	Annex III (b): Ecodesign ² Regulation applicable/ expected	Annex III (c): Energy Star applicable	Comments / Other applicable Minimum standards
lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:249:0021:0021:EN:PDF <ul style="list-style-type: none"> http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:297:0072:0072:EN:PDF 				
Domestic Washing Machines and Dishwashers <ul style="list-style-type: none"> http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010R1061:EN:NOT http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010R1059:EN:NOT 	EU/1061/2010 (household washing machines) EU /1059/2010 (household dishwashers)		Yes – see www.energystar.gov	<ul style="list-style-type: none"> To be reviewed in 2014. GBS in place
Solid fuel small combustion installation (solid fuel boilers?)		Waiting for agreement –		
Household tumble driers. <ul style="list-style-type: none"> http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32012R0392:EN:NOT http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:124:0056:0056:EN:PDF http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2012:278:SOM:EN:HTML 	EU/392/2012	EU/932/2012		<ul style="list-style-type: none"> To be reviewed 2017 GBS in place
Vacuum cleaners	EU/665/2013	EU/666/2013		
Professional washing machines, dryers and dishwashers		Waiting for agreement	Yes – see www.energystar.gov	
Office equipment in both domestic and tertiary sectors				
Personal computers (desktops and laptops) & displays		EU/617/2013	Yes – see www.energystar.gov Computers - http://www.eu-energystar.org/downloads/legislation/20090624/L161_16_20090624_en.pdf Displays - http://www.eu-energystar.org/downloads/legislation/20091029/L282_23_20091029_en.pdf	<ul style="list-style-type: none"> GBS in place

Category / product type:	Annex III (a): Energy Labelling ¹ Regulation applicable/ expected	Annex III (b): Ecodesign ² Regulation applicable/ expected	Annex III (c): Energy Star applicable	Comments / Other applicable Minimum standards
Imaging equipment (copiers, faxes, printers, scanners, multifunctional devices)		Voluntary agreement only	Yes – see www.energystar.gov Imaging - http://www.energystar.org/downloads/legislation/20090428/L106_25_20090428_en.pdf	<ul style="list-style-type: none"> GBS in place
Battery chargers and external power supplies <ul style="list-style-type: none"> http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:093:0003:0010:EN:PDF 		External power supplies EC/278/2009	Yes – see www.energystar.gov	<ul style="list-style-type: none"> To be reviewed in 2013.
Standby losses for a group of products				
Standby and off-mode	None	EC/801/2013		
Standby and off-mode losses	None expected	EC/801/2013		
Consumer electronics				
Complex set top boxes	None expected	Voluntary Agreement in place.	Yes – see www.energystar.gov	<ul style="list-style-type: none"> GBS in place
Simple set top boxes <ul style="list-style-type: none"> http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:036:0008:0014:EN:PDF 	None expected.	EC/107/2009	Yes – see www.energystar.gov	<ul style="list-style-type: none"> To be reviewed in 2014. GBS in place
Televisions	EU/1062/2010	EC/801/2013	Yes – see www.energystar.gov	<ul style="list-style-type: none"> Under review. GBS in place
HVAC (heating, ventilation and air conditioning) systems				
Air conditioners and comfort fans SCOPE This Regulation establishes eco-design requirements for the placing on the market of electric mains-operated air conditioners with a rated capacity of ≤ 12 kW for cooling, or heating if the product has no cooling function, and comfort fans with an electric fan power input ≤ 125W.		EU/206/2012 (N.B. Although the above entered into force March 2012, requirements applied from 01/01/13).	Yes – see www.energystar.gov	<ul style="list-style-type: none"> Air conditioners review 2016 GBS in place
Domestic ventilation and kitchen hoods <ul style="list-style-type: none"> http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2014:029:0001:0032:EN:PD http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2014:029:0001:0032:EN:PD 	EU/65/2014	Kitchen hoods part of cookers EU/66/2014 regulation		

Category / product type:	Annex III (a): Energy Labelling ¹ Regulation applicable/ expected	Annex III (b): Ecodesign ² Regulation applicable/ expected	Annex III (c): Energy Star applicable	Comments / Other applicable Minimum standards
lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2014:029:0033:0047:EN:PDF				
Air-conditioning and ventilation systems (commercial)	Dec 2013?	Agreed December 2013; not yet published		<ul style="list-style-type: none"> GBS in place
Electric and fossil fuel heating equipment				
Local room heating products	Agreed 2013; not yet published	Agreed 2013; not yet published		
Central heating products using hot air to distribute heat (other than CHP) – Space heaters and boilers?	Waiting agreement	Agreed 2013; not yet published		
Food preparing equipment				
Domestic and commercial ovens (electric, gas, microwave), including when incorporated in cookers <ul style="list-style-type: none"> http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2014:029:0001:0032:EN:PD http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2014:029:0033:0047:EN:PDF 	Label for domestic products only, EU/65/2014	Agreed July 2013 for domestic, now EU/66/2014 Unlikely for commercial in the medium term.	Yes – see commercial ovens at www.energystar.gov	<ul style="list-style-type: none"> GBS in place
Domestic and commercial hobs and grills <ul style="list-style-type: none"> http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2014:029:0001:0032:EN:PD http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2014:029:0033:0047:EN:PDF 	None expected	Agreed July 2013 for domestic, now unlikely for commercial in the medium term. EU/66/2014	Yes – see Commercial Griddles at www.energystar.gov	<ul style="list-style-type: none"> GBS in place
Non-tertiary coffee machines	None expected	Standby mode EC/801/2013	N/A	
Industrial and laboratory furnaces and ovens				
Industrial and laboratory furnaces and ovens		Preparatory study complete. Possible measures for laboratory furnaces	Yes – see www.energystar.gov	
Machine tools				
Machine tools		Preparatory study complete	Yes – see Power Tools with Qualified Chargers – www.energystar.gov	
Network, data processing and data storage equipment				
Networked standby losses of EuPs	None expected	EC/801/2013	N/A	
Data Centres	None expected.	Preparatory study	Note requirements	<ul style="list-style-type: none"> No GBS

Category / product type:	Annex III (a): Energy Labelling ¹ Regulation applicable/ expected	Annex III (b): Ecodesign ² Regulation applicable/ expected	Annex III (c): Energy Star applicable	Comments / Other applicable Minimum standards
		for enterprise servers underway	for Enterprise Servers/Uninterruptible Power Supplies at www.energystar.gov	(except where Data centres classified as "major construction") <ul style="list-style-type: none"> EU Code of Conduct.
Uninterruptable power supplies	None expected	Preparatory study underway.	Yes – see www.energystar.gov	<ul style="list-style-type: none"> EU Code of Conduct.
Refrigerating and freezing equipment				
Commercial refrigerating equipment	None expected.	2015	Yes – see www.energystar.gov	<ul style="list-style-type: none"> GBS in place
Sound and imaging equipment, games consoles DVDs and projectors		Voluntary Agreement on games consoles under discussion. Other action under consideration by Commission.	N/A	
Transformers				
Transformers <ul style="list-style-type: none"> http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0548&qid=1401694025950&from=EN 	None expected	EU/548/2014	N/A	
Miscellaneous, and future products to be covered				
Medical imaging equipment	None expected	Industry self regulatory agreement – not Ecodesign measure.	N/A	
Steam boilers/ systems	No action taken yet, but preparatory study planned	No action taken yet, but preparatory study planned	N/A	
Enterprises servers, storage and ancillary equipment	No action taken yet, but preparatory study planned.	Preparatory study underway	Yes – see www.energystar.gov	<ul style="list-style-type: none"> EU Code of Conduct.
Smart appliances/ meters	No action taken yet, but preparatory study planned	No action taken yet, but preparatory study planned	N/A	
Fractional horse power motors under 200W		Launching a preparatory study will be conditional to the outcome of ongoing regulatory processes and/or reviews.		
Positive displacement pumps		Launching a preparatory study will be conditional to	N/A	

Category / product type:	Annex III (a): Energy Labelling ¹ Regulation applicable/ expected	Annex III (b): Ecodesign ² Regulation applicable/ expected	Annex III (c): Energy Star applicable	Comments / Other applicable Minimum standards
		the outcome of ongoing regulatory processes and/or reviews		
Heating controls		Launching preparatory study will be conditional to the outcome of ongoing regulatory processes and/or reviews		<ul style="list-style-type: none"> • GBS in place
Lighting controls		Launching a preparatory study will be conditional to the outcome of ongoing regulatory processes and/or reviews.	Yes – see Commercial LED Lighting/Light fixtures at www.energystar.gov	<ul style="list-style-type: none"> • GBS in place
Buildings (new rental agreements/purchases)				<ul style="list-style-type: none"> • Article 5 (1) Energy Efficiency Directive 2012/27/EU • No GBS for new rental/ purchase– except for new build / major refurbishment

Tyres	
See Regulation (EC) No 1222/2009 on the labelling of tyres with respect to fuel efficiency and other essential parameters. http://eur-lex.europa.eu/LexUriServ.do?uri=OJ:L:2009:342:0046:0058:en:PDF	<ul style="list-style-type: none"> • Not covered in current GBS (but vehicles GBS in development)