STATUTORY INSTRUMENTS

2018 No. 374

TRANSPORT
ENERGY
CLIMATE CHANGE

The Renewable Transport Fuels and Greenhouse Gas Emissions Regulations 2018

Made - - - -	*13th March 2018*
Coming into force - -	*15th April 2018*

The Secretary of State, having consulted in accordance with section 124(4) of the Energy Act 2004(**1**) ("the 2004 Act") and section 2(4) of the Pollution Prevention and Control Act 1999(**2**) ("the 1999 Act"), makes these Regulations in exercise of the powers conferred by: sections 124, 125A(1), 125B(1), 126(1) to (5), 127, 128(1) and (2), 129(1), 132(4) and 192(4) of the 2004 Act(**3**); sections 2 and 7(8) of, and paragraphs 1, 2, 11, 12, 17 and 21A of Schedule 1 to, the 1999 Act(**4**); and section 2(2) of the European Communities Act 1972(**5**) ("the 1972 Act"), as read with paragraph 1A of Schedule 2 to that Act(**6**).

The Secretary of State is a Minister designated for the purposes of section 2(2) of the 1972 Act in relation to the environment(**7**) and in relation to energy and energy sources(**8**).

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears expedient to the Secretary of State for certain references to provisions of European Union instruments to be construed as references to those provisions as amended from time to time.

A draft of these Regulations was laid before Parliament in accordance with sections 124(5) and 192(3) of the 2004 Act; section 2(8) of the 1999 Act; and paragraph 2(2) of Schedule 2 to the 1972 Act, and approved by a resolution of each House of Parliament.

(**1**) 2004 c.20 ("the 2004 Act").
(**2**) 1999 c.24 ("the 1999 Act").
(**3**) Sections 125A, 125B and 126(5) of the 2004 Act were inserted by section 78 of, and Schedule 7 to, the Climate Change Act 2008 (c.27). Section 192(4) of the 2004 Act was amended by section 62 of the Scotland Act 2016 (c.11).
(**4**) Paragraph 21A of Schedule 1 to the 1999 Act was inserted by section 38 of the Waste and Emissions Trading Act 2003 (c.33). There are other amendments to the 1999 Act which are not relevant to these Regulations.
(**5**) 1972 c.68 ("the 1972 Act"). Section 2(2) of the 1972 Act was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).
(**6**) Paragraph 1A of Schedule 2 to the 1972 Act was inserted by section 28 of the Legislative and Regulatory Reform Act 2006. It was amended by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 and by S.I. 2007/1388.
(**7**) S.I. 2008/301.
(**8**) S.I. 2010/761.

PART 1

PRELIMINARY MATTERS

Citation and commencement

1. These Regulations may be cited as the Renewable Transport Fuels and Greenhouse Gas Emissions Regulations 2018 and come into force on 15th April 2018.

Extent

2. An amendment, repeal or revocation made by these Regulations has the same extent as the Act or instrument amended, repealed or revoked.

PART 2

AMENDMENT OF THE ENERGY ACT 2004

Introductory

3. The Energy Act 2004 is amended in accordance with this Part.

Amendment of section 132 of the Energy Act 2004

4.—(1) Section 132 (interpretation of Chapter 5 of Part 2)(**9**) is amended as follows.

(2) In subsection (3)(a)(iii), omit "agricultural or forestry".

(3) In subsection (4)—

(a) omit the definition of "agricultural or forestry tractor";

(b) for the definition of "inland waterway vessel", substitute—

> ""inland waterway vessel" means an inland waterway vessel, within the meaning given by Article 3(c) of the 2016 Directive, to which that Directive applies (see Article 2 of the 2016 Directive); and in this definition "the 2016 Directive" means Directive EU 2016/1629 of the European Parliament and of the Council of 14 September 2016(**10**) laying down technical requirements for inland waterway vessels;";

(c) for the definition of "non-road mobile machinery", substitute—

> ""non-road mobile machinery" means non-road mobile machinery, within the meaning given by Article 3(1) of the 2016 Regulation, which has installed in it an engine within a category set out in paragraph 1 of Article 4 of that Regulation; and in this definition "the 2016 Regulation" means Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016(**11**) on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery;";

(**9**) Section 132 of the 2004 Act was amended by section 78 of, and Schedule 7, to the Climate Change Act 2008 and by S.I. 2012/2723. There are other amendments which are not relevant to these Regulations.
(**10**) OJ L 252 16.9.2016 p.118.
(**11**) OJ L 252 16.9.2016 p.53.

(d) for the definition of "recreational craft", substitute—

""recreational craft" has the meaning given by Article 3(2) of Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013(**12**) on recreational craft and personal watercraft;";

(e) for the definition of "renewable source", substitute—

""renewable source", in relation to energy, means any of the following non-fossil sources of energy, namely wind, the sun, aerothermal sources, geothermal sources, water (including hydrothermal sources, waves and tides) and biomass (including landfill gas, sewage treatment plant gas and biogases), where—

(a) "aerothermal" means energy stored in the form of heat in the ambient air;

(b) "geothermal" means energy stored in the form of heat beneath the surface of solid earth; and

(c) "hydrothermal" means energy stored in the form of heat in surface water;";

(f) after the definition of "renewable source", insert—

""tractor" has the meaning given by Article 3(8) of Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013(**13**) on the approval and market surveillance of agricultural and forestry vehicles.".

PART 3

RENEWABLE TRANSPORT FUEL AMENDMENTS

Introductory

5. The Renewable Transport Fuel Obligations Order 2007(**14**) is amended in accordance with this Part.

Insertion of article 1A

6. After article 1 (citation and commencement), insert—

"**Review**

1A.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in this Order; and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 15th April 2023.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015(**15**) requires that a review carried out under this article must, so far as is reasonable, have regard to how the directive is implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this article must, in particular—

(**12**) OJ L 354 28.12.2013 p.90.
(**13**) OJ L 60 2.3.2013 p.1. There are amendments to the EU instrument which are not relevant to these Regulations.
(**14**) S.I. 2007/3072.
(**15**) Section 30 of the Small Business, Enterprise and Employment Act 2015 (c.26) was amended by section 19 of the Enterprise Act 2016 (c.12).

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);

(b) assess the extent to which those objectives are achieved;

(c) assess whether those objectives remain appropriate; and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this article, "regulatory provision" has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).".

Amendment of article 2

7.—(1) Article 2 (interpretation)(**16**) is amended as follows.

(2) In paragraph (1)—

(a) omit the definition of "the 2011 Order";

(b) omit the definition of "buy-out fund";

(c) omit the definition of "the cross compliance requirements";

(d) omit the definition of "the directive";

(e) for the definition of "relevant feedstock", substitute—

""relevant feedstock" means—

(a) processing residues of biological origin;

(b) products of biological origin, including relevant crops and dedicated energy crops;

(c) renewable sources other than biomass used to produce RFNBO;

(d) residues from agriculture, aquaculture, fisheries or forestry;

(e) wastes of biological origin;";

(f) omit the definition of "sustainable wastes";

(g) in the appropriate places, insert—

""the 2012 Regulations" means the Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012(**17**);";

""assessment time" means—

(a) in relation to renewable aviation turbine fuel that is attributable to relevant feedstocks, the time at which a refinery certificate of quality is issued which certifies, in accordance with standard 1530 (as revised or re-issued from time to time)(**18**) of the Energy Institute(**19**) and the Joint Inspection Group(**20**), that the fuel meets one of the standards set out in article 3(1B)(d);

(b) in relation to renewable hydrogen that is attributable to relevant feedstocks, the time at which is it sold to a retail customer;

(**16**) Article 2 was amended by S.I. 2011/493, 2011/2937, 2013/816 and 2015/534.
(**17**) S.I. 2012/3030.
(**18**) A copy of the relevant standard can be obtained from Portland Customer Services, Commerce Way, Whitehall Industrial Estate, Colchester, Essex CO2 8HP (email: sales@portland-services.com) or SAI Global - ILI Publishing, Index House, Ascot, Berkshire, SL5 7EU (website: www.ili.co.uk or www.i2isolutions.net; email: standards@saiglobal.com).
(**19**) The Energy Institute, 61 New Cavendish Street, London W1G 7AR; https://www.energyinst.org/home.
(**20**) Joint Inspection Group Limited, 9 Caxton House, Broad Street, Cambourne, Cambridgeshire, CB23 6JN (http://www.jigonline.com/).

(c) in relation to gaseous renewable transport fuel that is attributable to relevant feedstocks and which is to be used only in non-road transports, the time at which the fuel is set aside for such use;

(d) in relation to fuel, other than fossil fuel for use in aircraft, which does not fall within sub-paragraph (a), (b) or (c), the time at which the requirement under the 1979 Act to pay the duty of excise with which that fuel is chargeable took effect;";

""dedicated energy crops" means crops which—

(a) consist of—

(i) non-food cellulosic material; or

(ii) ligno-cellulosic material, except saw logs and veneer logs;

(b) are grown for the purpose of being used as fuel or energy;

(c) are not a residue (including processing residues and residues from agriculture, aquaculture, fisheries or forestry) or a waste; and

(d) would not normally be used for food or feed;";

""development fuel RTF certificate" means an RTF certificate(**21**) which derives from renewable transport fuel made from development fuel and which is specified as such in accordance with article 17(2A);";

""development fuel target" has the meaning given in article 4(5);";

""the directive" means Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009(**22**) on the promotion of the use of energy from renewable sources, etc., and a reference in this Order to Annex V to the directive is a reference to that Annex as amended from time to time;";

""GHG credit" has the meaning given in the 2012 Regulations;";

""issue of an additional RTF certificate" means the issue of an additional RTF certificate for each whole litre of fuel under article 17A;";

""ligno-cellulosic material" means material composed of lignin, cellulose and hemicellulose, such as biomass sourced from forests, woody energy crops and forest-based industries' residues and wastes;";

""main obligation" has the meaning given in article 4(6);";

""non-food cellulosic material" means feedstocks which are mainly composed of cellulose and hemicellulose, having a lower lignin content than ligno-cellulosic material, including (among other things)—

(a) food and feed crop residues, such as straw, stover, husks and shells;

(b) grassy energy crops with a low starch content, such as ryegrass, switchgrass, miscanthus, giant cane and cover crops before and after main crops;

(c) industrial residues, including from food and feed crops after vegetal oils, sugars, starches and protein have been extracted; and

(d) material from biowaste;";

""non-road transports" means—

(a) non-road mobile machinery;

(**21**) See section 127(1) of the 2004 Act for the meaning of "RTF certificates".

(**22**) The directive was amended by Council Directive 2013/18/EU of 13 May 2013 (OJ L 158 10.6.2013 p.230) and Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 September 2015 (OJ L 239 15.9.2015 p.1).