STATUTORY INSTRUMENTS

2017 No. 1234

ELECTRICITY

The Renewables Obligation (Amendment) Regulations 2017

Made - - - -	*7th December 2017*
Laid before Parliament	*11th December 2017*
Coming into force - -	*1st January 2018*

The Secretary of State, being a Minister designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to energy and energy sources, makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Renewables Obligation (Amendment) Regulations 2017.

(2) These Regulations come into force on 1st January 2018.

(3) Any amendment made by these Regulations has the same extent as the provision to which it relates.

Amendments to Renewables Obligation Order 2015

2. The Renewables Obligation Order 2015(**3**) is amended in accordance with regulations 3 to 6.

3.—(1) Article 2 (interpretation) is amended as follows.

(2) In paragraph (1) for paragraph (b) of the definition of "waste" substitute—

"(b) does not include landfill gas, sewage gas or any substance intentionally modified or contaminated to fall within the meaning of "waste" given in Article 3(1) of that Directive(**4**).".

(**1**) See article 6 of S.I. 2010/761.
(**2**) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). Section 57(1) of the Scotland Act 1998 (c.46) provides that, despite the transfer to the Scottish Ministers of functions in relation to observing and implementing obligations under EU law, any function of a Minister of the Crown shall continue to be exercisable by the Minister as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972.
(**3**) S.I. 2015/1947, to which there are amendments not relevant to these Regulations.
(**4**) Directive 2008/98/EC of the European Parliament and of the Council of 19th November 2008 on waste and repealing certain Directives, O.J. No. L 312, 22.11.2008, p.3.

(3) After paragraph (6) insert—

"(7) A reference in this Order to residue does not, in the case of residue from processing, include a reference to any substance that is a primary aim of a production process or that the process has been deliberately modified to produce.".

4.—(1) Article 82 (information to be provided to the Authority where electricity is generated from biomass) is amended as follows.

(2) In paragraph (4)—

(a) at the end of sub-paragraph (d) omit "and";

(b) in sub-paragraph (e)(v) for "softwood." substitute "softwood; and";

(c) after sub-paragraph (e) insert—

"(f) where the biomass was bioliquid used in a generating station on or after 1st January 2018, its energy content produced from each of the following categories of crop—

(i) starch-rich crops;

(ii) sugars;

(iii) oil crops;

(iv) any other crops grown as a main crop primarily for energy purposes on agricultural land.".

(3) In paragraph (10)—

(a) at the end of the definition of "protected or threatened species" omit "and";

(b) in the definition of "saw log" for "sawmill." substitute "sawmill; and";

(c) after the definition of "saw log" insert—

""starch-rich crops" includes—

(a) cereals (regardless of whether only the grains are used or the whole plant (such as in the case of green maize) is used);

(b) tubers and root crops (such as potatoes, Jerusalem artichokes, sweet potatoes, cassava and yams); and

(c) corm crops (such as taro and cocoyam).".

5.—(1) Schedule 1 (greenhouse gas criteria for bioliquid) is amended as follows.

(2) In paragraph 1 (interpretation)—

(a) omit the definition of "disaggregated default values for cultivation";

(b) for the definition of "relevant percentage" substitute—

""relevant percentage" means—

(a) in relation to bioliquid produced by an installation that started producing liquid fuel from biomaterial before 6th October 2015—

(i) 35% in the case of bioliquid used to generate electricity before 1st January 2017;

(ii) 50% in the case of bioliquid used to generate electricity on or after 1st January 2017;

(b) in relation to bioliquid produced by an installation that started producing liquid fuel from biomaterial on or after 6th October 2015—

(i) 35% in the case of bioliquid used to generate electricity before 1st January 2017;

(ii) 50% in the case of bioliquid used to generate electricity on or after 1st January 2017 but before 1st January 2018;

(iii) 60% in the case of bioliquid used to generate electricity on or after 1st January 2018.".

(3) Omit paragraph 5.

(4) For paragraph 6 substitute—

"**6.** The default percentage must not be used in relation to bioliquid described in the first column of Part A or Part B of Annex 5 to the Renewables Directive(**5**) unless, in relation to the bioliquid, the result of the calculation in paragraph 7 of Part C of that Annex is equal to, or less than, zero.".

6.—(1) Schedule 3 (land criteria) is amended as follows.

(2) Renumber paragraph 1 (interpretation) as sub-paragraph (1) of that paragraph.

(3) In paragraph 1 after sub-paragraph (1) insert—

"(2) A reference in this Schedule to residue from agriculture, aquaculture, fisheries or forestry—

(a) is a reference to residue directly generated by (as the case may be) agriculture, aquaculture, fisheries or forestry; and

(b) does not include a reference to residue from related industries or residue from processing.".

Amendments to Renewables Obligation (Scotland) Order 2009

7. The Renewables Obligation (Scotland) Order 2009(**6**) is amended in accordance with regulations 8 to 11.

8.—(1) Article 2 (interpretation) is amended as follows.

(2) In paragraph (1) for paragraph (b) of the definition of "waste" substitute—

"(b) does not include landfill gas, sewage gas or any substance intentionally modified or contaminated to fall within the meaning of "waste" given in Article 3(1) of that Directive.".

(3) After paragraph (8) insert—

"(9) A reference in this Order to residue does not, in the case of residue from processing, include a reference to any substance that is a primary aim of a production process or that the process has been deliberately modified to produce.".

(**5**) Directive 2009/28/EC of the European Parliament and of the Council of 23rd April 2009 on the promotion of the use of energy from renewable sources, O.J. No. L 140, 5.6.2009, p.16. The Directive was amended by Council Directive 2013/18/EU of 13th May 2013 adapting Directive 2009/28/EU of the European Parliament and of the Council on the promotion of the use of energy from renewable sources, by reason of the accession of the Republic of Croatia, O.J. No. L 158, 10.6.2013, p.230, and by Directive (EU) 2015/1513 of the European Parliament and of the Council of 9th September 2015 amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources, O.J. No. L 239, 15.9.2015, p.1. The definition of "Renewables Directive" (i.e., Directive 2009/28/EC) in article 2(1) of the Renewables Obligation Order 2015 provides that in certain provisions (including Schedule 1) references to Annex 5 to the Directive are to Annex 5 as amended from time to time.

(**6**) S.S.I. 2009/140; relevant amending instruments are S.S.I. 2011/225 and 2015/384.

9.—(1) Article 54 (information to be provided to the Authority where electricity is generated from biomass) is amended as follows.

(2) In paragraph (4)—

(a) at the end of sub-paragraph (d) omit "and";

(b) in sub-paragraph (e)(v) for "softwood." substitute "softwood; and";

(c) after sub-paragraph (e) insert—

"(f) where the biomass was bioliquid used in a generating station on or after 1st January 2018, its energy content produced from each of the following categories of crop—

(i) starch-rich crops;

(ii) sugars;

(iii) oil crops;

(iv) any other crops grown as a main crop primarily for energy purposes on agricultural land.".

(3) In paragraph (10)—

(a) at the end of the definition of "protected or threatened species" omit "and";

(b) in the definition of "saw log" for "sawmill." substitute "sawmill; and";

(c) after the definition of "saw log" insert—

""starch-rich crops" includes—

(a) cereals (regardless of whether only the grains are used or the whole plant (such as in the case of green maize) is used);

(b) tubers and root crops (such as potatoes, Jerusalem artichokes, sweet potatoes, cassava and yams); and

(c) corm crops (such as taro and cocoyam).".

10.—(1) Schedule A1 (greenhouse gas emission criteria for bioliquid) is amended as follows.

(2) In paragraph 1 (interpretation)—

(a) omit the definition of "disaggregated default values for cultivation";

(b) for the definition of "relevant percentage" substitute—

""relevant percentage" means—

(a) in relation to bioliquid produced by an installation that started producing liquid fuel from biomaterial before 6th October 2015—

(i) 35% in the case of bioliquid used to generate electricity before 1st January 2017;

(ii) 50% in the case of bioliquid used to generate electricity on or after 1st January 2017;

(b) in relation to bioliquid produced by an installation that started producing liquid fuel from biomaterial on or after 6th October 2015—

(i) 35% in the case of bioliquid used to generate electricity before 1st January 2017;

(ii) 50% in the case of bioliquid used to generate electricity on or after 1st January 2017 but before 1st January 2018;