Draft Order laid before Parliament under sections 124(5) and 192(3) of the Energy Act 2004, and paragraph 2(2) of Schedule 2 to the European Communities Act 1972, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

TRANSPORT
ENERGY

SUSTAINABLE AND RENEWABLE FUELS

The Renewable Transport Fuel Obligations (Amendment) Order 2013

Made - - - -

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 124, 125A(1), 125B(1), 126(1) to (5), 127, 129, 132(1) and 192(4) of the Energy Act 2004(**1**) ("the 2004 Act"), and by section 2(2) of the European Communities Act 1972(**2**) ("the 1972 Act").

The Secretary of State is a Minister designated(**3**) for the purposes of section 2(2) of the 1972 Act in relation to energy and energy sources.

In accordance with section 124(4) of the 2004 Act, the Secretary of State has consulted such persons appearing to the Secretary of State to represent persons whose interests will be affected by this Order, and such other persons, as the Secretary of State considers appropriate.

A draft of this Order was laid before Parliament in accordance with sections 124(5) and 192(3) of the 2004 Act and paragraph 2(2) of Schedule 2 to the 1972 Act and approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) This Order may be cited as the Renewable Transport Fuel Obligations (Amendment) Order 2013 and, subject to paragraph (2), comes into force on the day after the day on which the Order is made.

(**1**) 2004 (c.20); sections 125A(1) and 125B(1) were inserted by paragraphs 1 and 2 of Schedule 7 to the Climate Change Act 2008 (c.27).
(**2**) 1972 (c.68); section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).
(**3**) S.I. 2010/761.

(2) Articles 3 to 11 come into force on 15th April 2013.

Amendment of the Renewable Transport Fuel Obligations Order 2007

2. The Renewable Transport Fuel Obligations Order 2007(**4**) is amended as follows.

Amendment of article 2 (interpretation)

3. After article 2(2) insert—

"(3) For the purposes of this Order, an inland waterway vessel or a recreational craft which does not normally operate at sea is to be treated as such only if it does not normally operate beyond the limits of waters in—

(a) category A;

(b) category B; and

(c) category C, excluding tidal rivers and estuaries,

where categories A, B and C have the meanings given to them in Merchant Shipping Notice 1827(M) issued by the Maritime and Coastguard Agency as revised or re-issued from time to time.".

Amendment of article 3 (definitions of fuels and fuel products)

4. After article 3(3) insert—

"(3A) "Gas oil" has the same meaning as in regulation 2 of the Motor Fuel Regulations(**5**).".

5. After article 3(5A) insert—

"(5B) "Low sulphur gas oil" means any gas oil—

(a) which is for use in—

(i) non-road mobile machinery, including inland waterway vessels which do not normally operate at sea;

(ii) agricultural tractors;

(iii) forestry tractors; or

(iv) recreational craft which do not normally operate at sea(**6**); and

(b) the sulphur content of which does not exceed the level specified in regulation 5B(1)(b) of the Motor Fuel Regulations(**7**).".

6. For article 3(10) substitute—

"(10) "Relevant hydrocarbon oil" means hydrocarbon oil which—

(a) is chargeable to a duty of excise under the 1979 Act(**8**);

(b) is for use as fuel in road vehicles, non-road mobile machinery (including inland waterway vessels which do not normally operate at sea), agricultural or forestry tractors, or recreational craft which do not normally operate at sea; and

(**4**) S.I. 2007/3072, amended by section 13(10) of the Finance Act 2008 (c.9), S.I. 2009/843, S.I. 2011/493 and S.I. 2011/2937.
(**5**) The definition of "gas oil" was inserted into S.I. 1999/3107 by regulations 2 and 3(b) of S.I. 2003/3078.
(**6**) The definitions of agricultural or forestry tractor, inland waterway vessel, non-road mobile machinery and recreational craft were inserted into section 132(4) of the Energy Act 2004 (c.20) by S.I. 2012/2723.
(**7**) Regulations 5A, 5B and 5C of S.I. 1999/3107 were substituted for regulation 5A as previously enacted by regulations 2 and 7 of S.I. 2010/3035.
(**8**) 1979 (c.5).

(c) falls within one of the following categories—

(i) petrol,

(ii) diesel,

(iii) gas oil,

(iv) renewable transport fuel,

but does not include detergents, cetane improvers, lubricity improvers, viscosity improvers, oxidation inhibitors, gum inhibitors, anti-corrosive preparations and like substances intended for use as fuel additives.".

Amendment of article 4 (the renewable transport fuel obligation)

7. In article 4(6)(c)(ii) for "5.2632%" substitute "4.9870%".

8. For article 4(8)(a)(ii) substitute—

"(ii) is for use as fuel in road vehicles, non-road mobile machinery (including inland waterway vessels which do not normally operate at sea), agricultural or forestry tractors, or recreational craft which do not normally operate at sea;".

Amendment of article 5 (determinations of amounts of transport fuel)

9. For paragraph (1) of article 5 substitute the following—

"(1) Where, in relation to an amount of transport fuel, it is shown that a person owns the fuel at the time when the requirement to pay the duty of excise with which the fuel is chargeable takes effect, it is to be presumed—

(a) that that amount of fuel is supplied by that person at or for delivery to places in the United Kingdom at that time; and

(b) in relation to fuel for which the requirement to pay the duty of excise with which the fuel is chargeable takes effect on or after 15th April 2013, that such of that fuel as is petrol, diesel, low sulphur gas oil or renewable transport fuel is relevant hydrocarbon oil at that time.

(1A) The presumption in paragraph (1)(a) is to be displaced only if the Administrator is satisfied that the fuel will not be supplied at or for delivery to places in the United Kingdom.

(1B) The presumption in paragraph (1)(b) is to be displaced only if the Administrator is satisfied that the fuel is not relevant hydrocarbon oil.".

10. For paragraph (2) of article 5 substitute the following—

"(2) In relation to fuel which becomes chargeable to a duty of excise before 15th April 2013, an amount of renewable transport fuel only counts towards the discharging of a person's renewable transport fuel obligation for an obligation period if—

(a) it is for use as fuel in road vehicles,

(b) it meets the sustainability criteria, and

(c) the condition set out in paragraph (4) is satisfied.

(2A) In relation to fuel which becomes chargeable to a duty of excise on or after 15th April 2013, an amount of renewable transport fuel only counts towards the discharging of a person's renewable transport fuel obligation for an obligation period if—

(a) it is for use as fuel in road vehicles, non-road mobile machinery (including inland waterway vessels which do not normally operate at sea), agricultural or forestry tractors, or recreational craft which do not normally operate at sea,