STATUTORY RULES OF NORTHERN IRELAND

2016 No. 84

ELECTRICITY

The Renewables Obligation (Amendment) Order (Northern Ireland) 2016

Laid before the Assembly in draft

Made - - - -	*29th February 2016*
Coming into operation	*1st March 2016*

The Department of Enterprise, Trade and Investment ("the Department") makes the following Order in exercise of the powers conferred upon it by Articles 52 to 55F and 66(3) of the Energy (Northern Ireland) Order 2003(**1**).

The Department has consulted the Northern Ireland Authority for Utility Regulation, the General Consumer Council for Northern Ireland, electricity suppliers to whom this Order applies, and such generators of electricity from renewable sources in Northern Ireland and other persons as considered appropriate in accordance with Article 55E of that Order.

In accordance with Article 66(2) of that Order a draft of this instrument was laid before and approved by a resolution of the Assembly.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Renewables Obligation (Amendment) Order (Northern Ireland) 2016 and comes into operation on 1st March 2016.

(2) In this Order, "the 2009 Order" means the Renewables Obligation Order (Northern Ireland) 2009(**2**).

Interpretation

2. In Article 2(1)—

(a) after the definition of "anaerobic digestion" insert—

> ""animal excreta" means excreta produced by animals and includes biomass wholly derived from excreta produced by animals;";

(**1**) S.I. 2003/419 (N.I.6) Articles 52 to 55F were substituted by S.R. 2009 No.35

(**2**) S.R. 2009 No. 154 as amended by S.R. 2010 No. 134, S.R. 2011 No. 169, S.R. 2013 No. 116, S.R. 2013 No. 174, S.R. 2014 No. 146 and S.R. 2015 No. 287

(b) after the definition of "biomass", insert—

""BS EN 15359:2011" means the document identified by Standard Number BS EN 15359:2011 and entitled "Solid recovered fuels. Specifications and classes" published by the British Standards Institution on 30th November 2011(**3**);

"BS EN 15402:2011" means the document identified by Standard Number BS EN 15402:2011 and entitled "Solid recovered fuels. Determination of the content of volatile matter" published by the Brtitsh Standards Institution on 31st March 2011(**4**);

"BS EN 15415-1:2011" means the document identified by Standard Number BS EN 15415-1:2011 and entitled "Solid recovered fuels. Determination of particle size distribution. Screen method for small dimension particles" published by the British Standards Institution on 30th September 2011(**5**);

"BS EN 15590:2011" means the document identified by Standard Number BS EN 15590:2011 and entitled "Solid recovered fuels. Determination of the current rate of aerobic microbial activity using the real dynamic respiration index" published by the British Standards Institution on 30th September 2011(**6**)

(c) omit the definitions for "CEN/TS 15359:2006", "CEN/TS 15402:2006", "CEN/TS 15415:2006" and "CEN/TS 15590:2007";

(d) in the definition of "connected person", for "section 839 of the Income and Corporation Taxes Act 1988" substitute "section 1122 of the Corporation Tax Act 2010(**7**)";

(e) for the definition of "greenhouse gas emission criteria" substitute—

""greenhouse gas emission criteria" means—

(a) in the case of bioliquid, the criteria set out in Schedule A1 (greenhouse gas emission criteria for bioliquid); and

(b) in all other cases, the criteria set out in Part 1 of Schedule A1A (greenhouse gas emission criteria for solid and gaseous biomass);";

(f) after the definition of "regular biomass" insert—

""relevant target" has the meaning given by paragraph 1 of Schedule A1A (greenhouse gas emission criteria for solid and gaseous biomass);";

(g) in the definition of "Renewables Directive", for "Schedule A1" substitute "Schedules A1 and A2";

(h) for the definition of "Solid Recovered Fuel" substitute—

""Solid Recovered Fuel" means solid fuel which—

(a) Complies with the classification and specification requirements in BS EN 15359:2011,

(b) is prepared from a waste which is not a hazardous waste (where hazardous waste has a meaning given in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council on waste(**8**)),

(c) has a maximum rate of oxygen uptake of no more than 1500 milligrams of oxygen per kilogram of volatile solids per hour when measured using the real dynamic respiration test specified in BS EN 15590:2011, and

(**3**) ISBN 978 0 580 67493 8. Copies can be obtained from the British Standards Institution: www.bsi-global/com/en/.
(**4**) ISBN 978 0 580 68165 3. Copies can be obtained from the British Standards Institution: www.bsi-global/com/en/.
(**5**) ISBN 978 0 580 71118 3. Copies can be obtained from the British Standards Institution: www.bsi-global/com/en/.
(**6**) ISBN 978 0 580 69390 8. Copies can be obtained from the British Standards Institution: www.bsi-global/com/en/.
(**7**) 2010 c.4.
(**8**) OJ L 312, 22.11.2008, p.2.

(d) when subject to a methodology for the determination of particle size in accordance with BS EN 15415-1:2011, is able to pass through an opening measuring no more than 150 millimetres in all dimensions"; and

(i) for the definition of "waste" substitute—

""waste" has the meaning given in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council on waste(**9**) but—

(a) also includes anything derived from waste; and

(b) does not include landfill gas or sewage gas.".

Biomass and fuels which are to be treated as biomass

3. In Article 4—

(a) in paragraph (1A)(a), for "or algae" substitute ", algae or bacteria";

(b) in paragraph (1B)(a), for "or algae" substitute ", algae or bacteria"; and

(c) in paragraph (7), for "or algae" substitute ", algae or bacteria".

Circumstances in which no NIROCs are to be issued in respect of electricity generated from solid or gaseous biomass

4. After Article 21 (circumstances in which no NIROCs are to be issued in respect of electricity generated from renewable sources) insert—

"**Circumstances in which no NIROCs are to be issued in respect of electricity generated from solid or gaseous biomass**

21ZA.—(1) This Article applies to biomass (other than animal excreta, bioliquid, landfill gas, sewage gas or waste).

(2) No NIROCs are to be issued in respect of any electricity generated by a generating station from biomass to which this Article applies unless—

(a) the generating station has a total installed capacity of less than one megawatt; or

(b) the biomass meets the greenhouse gas emission criteria and the land criteria.".

Common agricultural policy requirements in the case of bioliquids

5. For Article 21B(b)(i) and (ii) substitute—

"(i) cultivated in a manner that breached a requirement or standard listed in the third column of the table in Annex 2 to Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy(**10**) ("the 2013 Regulation") and corresponding to the entry in the first column of that table for "environment, climate change, good agricultural condition of land;

(ii) cultivated in a manner that breached statutory management requirement number 10 in Annex 2 to the 2013 Regulation; or

(iii) obtained from land which does not meet the minimum requirements for good agricultural and environmental condition defined pursuant to Article 94 of the 2013 Regulation.".

(**9**) OJ L 312, 22.11.2008, p.3.
(**10**) OJ L 347, 20.12.2013, p.549.

NIROCs to be issued by the Authority in respect of a generating station's NIRO eligible renewable output

6. In Article 22—

(a) in paragraph (2), for "paragraph" substitute "paragraphs (2A) and";

(b) after paragraph (2) insert—

"(2A) Where—

(a) electricity was generated—

(i) by a generating station with a total installed capacity of at least one megawatt; and

(ii) using biomass (other than animal excreta, bioliquid, landfill gas, sewage gas or waste); and

(b) the greenhouse gas emissions from the use of that biomass are above the relevant target,

NIROCs in respect of that electricity must not be issued before the end of the second month following the obligation period in which the electricity was generated.

(2B) For the purposes of paragraph (2A), the greenhouse gas emissions from the use of biomass must be calculated in accordance with paragraphs 3 to 5 of Schedule A1A (greenhouse gas emission criteria for solid and gaseous biomass).".

Information to be provided to the Authority where electricity is generated from biomass

7. For Article 46 substitute—

"**Information to be provided to the Authority where electricity is generated from biomass**

46.—(1) This Article applies to a generating station—

(a) which generates electricity (wholly or partly) from biomass (other than municipal waste, landfill gas or sewage gas); and

(b) which is not a microgenerator.

(2) In relation to each consignment of biomass (other than municipal waste, landfill gas or sewage gas) used in a generating station to which this article applies, the operator of the station must, by the 30th June immediately following the obligation period during which the biomass is used ("the relevant date"), provide the Authority with—

(a) the information specified in paragraph (3);

(b) other than in the case of biomass which was gas formed by the anaerobic digestion of material which was—

(i) animal excreta; or

(ii) waste,

the information specified in paragraph (4); and

(c) other than in the case of biomass which—

(i) was used in a generating station with a total installed capacity of at least one megawatt; or

(ii) was animal excreta, bioliquid or waste,

the information specified in paragraph (5).

(3) The information specified in this paragraph is information identifying, to the best of the operator's knowledge and belief—

(a) the material from which the biomass was composed;

(b) where the biomass was solid and can take different forms, the form of the biomass;

(c) whether the biomass was animal excreta or waste;

(d) where the biomass was plant matter or derived from plant matter, the country where the plant matter was grown; and

(e) where the information specified in sub-paragraph (d) is not known or the biomass was not plant matter or derived from plant matter, the country from which the operator obtained the biomass.

(4) The information specified in this paragraph is information identifying, to the best of the operator's knowledge and belief—

(a) where the biomass was solid, its mass (in tonnes);

(b) where the biomass was liquid, its volume (in litres) when measured at 25 degrees Celsius and 0.1 megapascals;

(c) where the biomass was gas, its volume (in cubic metres) when measured at 25 degrees Celsius and 0.1 megapascals;

(d) where the biomass was an energy crop and was not a bioliquid—

(i) the type of energy crop in question; and

(ii) the use of the land on which the biomass was grown in the year before the land was first used to grow energy crops; and

(e) where the biomass was, or was derived from, wood and was not waste or bioliquid —

(i) the name of the forest or other location where that wood was grown;

(ii) a description of the forestry management practices or land management practices used in the forest or other location where that wood was grown;

(iii) where any of the wood was likely to be a protected or threatened species, the name of that species and the proportion of the biomass that is likely to be composed of, or derived from, that species;

(iv) the proportion of the biomass that was, or was derived from, a saw log, and the specification adopted by the operator in accordance with paragraph (6) for the purpose of determining the proportion of the biomass that was, or was derived from, a saw log; and

(v) the proportion of the biomass that was, or was derived from, hardwood and the proportion that was, or was derived from, softwood.

(5) The information specified in this paragraph is information identifying, to the best of the operator's knowledge and belief—

(a) the greenhouse gas emissions from the use of the biomass to generate one mega joule of electricity;

(b) where the biomass does not meet the greenhouse gas emission criteria, the main reasons why biomass meeting the greenhouse gas emission criteria was not used;

(c) whether the biomass meets the land criteria;

(d) where the biomass does not meet the land criteria, the main reasons why biomass meeting the land criteria was not used; and