

**Status:** Point in time view as at 07/03/2022. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Environment Act 2021, PART 1. (See end of Document for details)

## SCHEDULES

VALID FROM 30/09/2022

### SCHEDULE 17 **U.K.**

#### USE OF FOREST RISK COMMODITIES IN COMMERCIAL ACTIVITY

#### PART 1 **U.K.**

##### REQUIREMENTS

##### *Meaning of “forest risk commodity”*

- 1 (1) In this Schedule “forest risk commodity” means a commodity specified in regulations made by the Secretary of State.
- (2) The regulations may specify only a commodity that has been produced from a plant, animal or other living organism.
- (3) The regulations may specify a commodity only if the Secretary of State considers that forest is being or may be converted to agricultural use for the purposes of producing the commodity.
- (4) “Forest” means an area of land of more than 0.5 hectares with a tree canopy cover of at least 10% (excluding trees planted for the purpose of producing timber or other commodities).
- (5) In sub-paragraph (4) the reference to land includes land that is wholly or partly submerged in water (whether temporarily or permanently).
- (6) The regulations may not specify timber or timber products, within the meaning of [Regulation \(EU\) No. 995/2010](#) of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market.
- (7) Before making regulations under this paragraph the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (8) The requirement to consult in sub-paragraph (7) may be met by consultation carried out before this paragraph comes into force.

##### Commencement Information

- 11** Sch. 17 para. 1 not in force at Royal Assent, see [s. 147\(3\)](#)

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*Prohibition on using illegally produced commodities*

- 2 (1) A regulated person in relation to a forest risk commodity must not use that commodity in their UK commercial activities unless relevant local laws were complied with in relation to that commodity.
- (2) A regulated person in relation to a forest risk commodity must not use a product derived from that commodity in their UK commercial activities unless relevant local laws were complied with in relation to that commodity.
- (3) In this Schedule “local law”, in relation to a forest risk commodity, means any law having effect in the country or territory where the source organism was grown, raised or cultivated.
- (4) In this Schedule “relevant local law”, in relation to a forest risk commodity, means local law—
- (a) which relates to the ownership of the land on which the source organism was grown, raised or cultivated,
  - (b) which relates to the use of that land, or
  - (c) which otherwise relates to that land and is specified in regulations made by the Secretary of State.
- (5) The regulations may specify a local law only if it relates to the prevention of forest being converted to agricultural use.
- (6) The “source organism” means the plant, animal or other living organism from which the forest risk commodity was produced.
- (7) Sub-paragraph (1) does not apply to the use of a forest risk commodity where—
- (a) the commodity is waste (within the meaning of article 2(1) of the Renewable Transport Fuel Obligations Order 2007 (S.I. 2007/3072)), and
  - (b) the use of the commodity is for the purpose of making renewable transport fuel—
    - (i) that qualifies for the issue of an RTF certificate under article 17 of that Order, and
    - (ii) in respect of which an additional RTF certificate may be issued under article 17A(4) of that Order.
- (8) Sub-paragraph (2) does not apply to the use of a product derived from a forest risk commodity where—
- (a) the commodity is waste (within the meaning of article 2(1) of the Renewable Transport Fuel Obligations Order 2007 (S.I. 2007/3072)), and
  - (b) the product is renewable transport fuel—
    - (i) that qualifies for the issue of an RTF certificate under article 17 of that Order, and
    - (ii) in respect of which an additional RTF certificate may be or has been issued under article 17A(4) of that Order.

**Commencement Information**

- I2** Sch. 17 para. 2 not in force at Royal Assent, see [s. 147\(3\)](#)

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### *Due diligence system*

- 3
- (1) A regulated person in relation to a forest risk commodity who uses that commodity or a product derived from that commodity in their UK commercial activities must establish and implement a due diligence system in relation to that commodity.
  - (2) In this Schedule a “due diligence system”, in relation to a forest risk commodity, means a system for—
    - (a) identifying, and obtaining information about, that commodity,
    - (b) assessing the risk that relevant local laws were not complied with in relation to that commodity, and
    - (c) mitigating that risk.
  - (3) The Secretary of State may by regulations make further provision about the matters in sub-paragraph (2)(a) to (c), including in particular—
    - (a) the information that should be obtained;
    - (b) the criteria to be used in assessing risk;
    - (c) the ways in which risk may be mitigated.

### **Commencement Information**

- I3** Sch. 17 para. 3 not in force at Royal Assent, see [s. 147\(3\)](#)

### *Annual report on due diligence system*

- 4
- (1) A regulated person in relation to a forest risk commodity who uses that commodity or a product derived from that commodity in their UK commercial activities must, for each reporting period, provide the relevant authority with a report on the actions taken by the person to establish and implement a due diligence system in relation to that commodity as required by paragraph 3.
  - (2) The report must be provided no later than 6 months after the end of the reporting period to which it relates.
  - (3) The Secretary of State may by regulations make provision—
    - (a) about the content and form of reports under this paragraph;
    - (b) about the manner in which reports under this paragraph are to be provided.
  - (4) The relevant authority must make reports under this paragraph available to the public in the way, and to the extent, specified in regulations made by the Secretary of State.
  - (5) In this paragraph “relevant authority” means—
    - (a) the Secretary of State, or
    - (b) if regulations made by the Secretary of State specify another person as the relevant authority for the purposes of this paragraph, that other person.
  - (6) In this Schedule “reporting period” means—
    - (a) the period beginning with the day on which this paragraph comes fully into force and ending with the following 31 March, and
    - (b) each successive period of 12 months.

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### Commencement Information

**14** Sch. 17 para. 4 not in force at Royal Assent, see [s. 147\(3\)](#)

### Exemption

- 5 (1) A regulated person in relation to a forest risk commodity is exempt from the Part 1 requirements in respect of their use of that commodity, or a product derived from that commodity, in their UK commercial activities during a reporting period if they satisfy the following two conditions.
- (2) Condition 1 is that before the start of the period, the person gives a notice to the relevant enforcement authority containing—
- (a) a declaration that the person is satisfied on reasonable grounds that the amount of the commodity used in their UK commercial activities during the period will not exceed the prescribed threshold, and
  - (b) the prescribed information.
- (3) Condition 2 is that the amount of the commodity used in the person’s UK commercial activities during the period does not exceed the prescribed threshold.
- (4) Sub-paragraphs (5) and (6) apply where—
- (a) a regulated person gives a notice under sub-paragraph (2), but
  - (b) the amount of the commodity used in the person’s UK commercial activities during the period exceeds the prescribed threshold.
- (5) If, before the relevant date, the regulated person gives a notice to the relevant enforcement authority containing the prescribed information, the person is exempt from the Part 1 requirements in respect of their use of the commodity, or the product derived from the commodity, in their UK commercial activities during the part of the reporting period—
- (a) beginning with the start of the period, and
  - (b) ending with the date the notice is given.
- (6) If the regulated person does not give a notice under sub-paragraph (5), the person is not exempt from the Part 1 requirements in respect of their use of the commodity, or the product derived from the commodity, in their UK commercial activities during any part of the reporting period.
- (7) In this paragraph—
- “prescribed” means prescribed in regulations made by the Secretary of State;
- “relevant date” means the date during the reporting period that the amount of the commodity used in the person’s UK commercial activities exceeds the prescribed threshold;
- “relevant enforcement authority” means the enforcement authority on which the function of receiving notices under this paragraph has been conferred by Part 2 regulations.
- (8) Regulations under this paragraph may in particular—
- (a) prescribe thresholds by reference to weight or volume;

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- (b) make provision about how the amount of a forest risk commodity used in a regulated person's UK commercial activities (including in relation to a forest risk commodity from which a product is derived) is to be determined, and regulations under paragraph (b) may include provision for determining the amount by reference to matters determined or published by the Secretary of State or other persons.
- (9) Before making regulations under this paragraph (except under sub-paragraph (2) (b) or (5)) the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (10) The requirement to consult in sub-paragraph (9) may be met by consultation carried out before this paragraph comes into force.

#### Commencement Information

**I5** Sch. 17 para. 5 not in force at Royal Assent, see [s. 147\(3\)](#)

#### Guidance

- 6 (1) The Secretary of State may issue guidance to an enforcement authority about the Part 1 requirements.
- (2) An enforcement authority must have regard to guidance issued under sub-paragraph (1) when exercising its functions under Part 2 of this Schedule.

#### Commencement Information

**I6** Sch. 17 para. 6 not in force at Royal Assent, see [s. 147\(3\)](#)

#### Meaning of “regulated person”

- 7 (1) In this Schedule “regulated person”, in relation to a forest risk commodity, means a person (other than an individual) who carries on commercial activities in the United Kingdom, and—
- (a) meets such conditions in relation to turnover as may be specified in regulations made by the Secretary of State for the purposes of defining who is a regulated person in relation to that forest risk commodity, or
- (b) is an undertaking which is a subsidiary of another undertaking which meets those conditions.
- (2) Regulations under sub-paragraph (1) may make provision about how turnover is to be determined.
- (3) Before making regulations under sub-paragraph (1) the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (4) The requirement to consult in sub-paragraph (3) may be met by consultation carried out before this paragraph comes into force.
- (5) The Secretary of State may by regulations make provision for the Part 1 requirements not to apply, or to apply with modifications, in relation to a person

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who becomes a regulated person for such transitional period, after they become a regulated person, as may be specified in the regulations.

(6) The Secretary of State may by regulations make provision for a group of undertakings to be treated as a regulated person, in such circumstances, for such purposes and to such extent as may be provided (and may modify the application of the Schedule accordingly).

(7) In this paragraph—

“group” has the meaning given by section 474 of the Companies Act 2006;

“undertaking” has the meaning given by section 1161 of that Act,  
and whether an undertaking is a subsidiary of another undertaking is to be determined in accordance with section 1162 of that Act.

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#### **Commencement Information**

**I7** Sch. 17 para. 7 not in force at Royal Assent, see [s. 147\(3\)](#)

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