

Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (Text with EEA relevance)

*Article 1*

**Subject matter and scope**

This Directive establishes a common framework for the promotion of energy from renewable sources. It sets mandatory national targets for the overall share of energy from renewable sources in gross final consumption of energy and for the share of energy from renewable sources in transport. It lays down rules relating to statistical transfers between Member States, joint projects between Member States and with third countries, guarantees of origin, administrative procedures, information and training, and access to the electricity grid for energy from renewable sources. It establishes sustainability criteria for biofuels and bioliquids.

*Article 2*

**Definitions**

For the purposes of this Directive, the definitions in Directive 2003/54/EC apply.

The following definitions also apply:

- (a) 'energy from renewable sources' means energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;
- (b) 'aerothermal energy' means energy stored in the form of heat in the ambient air;
- (c) 'geothermal energy' means energy stored in the form of heat beneath the surface of solid earth;
- (d) 'hydrothermal energy' means energy stored in the form of heat in surface water;
- (e) 'biomass' means the biodegradable fraction of products, waste and residues from biological origin from agriculture (including vegetal and animal substances), forestry and related industries including fisheries and aquaculture, as well as the biodegradable fraction of industrial and municipal waste;
- (f) 'gross final consumption of energy' means the energy commodities delivered for energy purposes to industry, transport, households, services including public services, agriculture, forestry and fisheries, including the consumption of electricity and heat by the energy branch for electricity and heat production and including losses of electricity and heat in distribution and transmission;
- (g) 'district heating' or 'district cooling' means the distribution of thermal energy in the form of steam, hot water or chilled liquids, from a central source of production through a network to multiple buildings or sites, for the use of space or process heating or cooling;

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- (h) ‘bioliquids’ means liquid fuel for energy purposes other than for transport, including electricity and heating and cooling, produced from biomass;
- (i) ‘biofuels’ means liquid or gaseous fuel for transport produced from biomass;
- (j) ‘guarantee of origin’ means an electronic document which has the sole function of providing proof to a final customer that a given share or quantity of energy was produced from renewable sources as required by Article 3(6) of Directive 2003/54/EC;
- (k) ‘support scheme’ means any instrument, scheme or mechanism applied by a Member State or a group of Member States, that promotes the use of energy from renewable sources by reducing the cost of that energy, increasing the price at which it can be sold, or increasing, by means of a renewable energy obligation or otherwise, the volume of such energy purchased. This includes, but is not restricted to, investment aid, tax exemptions or reductions, tax refunds, renewable energy obligation support schemes including those using green certificates, and direct price support schemes including feed-in tariffs and premium payments;
- (l) ‘renewable energy obligation’ means a national support scheme requiring energy producers to include a given proportion of energy from renewable sources in their production, requiring energy suppliers to include a given proportion of energy from renewable sources in their supply, or requiring energy consumers to include a given proportion of energy from renewable sources in their consumption. This includes schemes under which such requirements may be fulfilled by using green certificates;
- (m) ‘actual value’ means the greenhouse gas emission saving for some or all of the steps of a specific biofuel production process calculated in accordance with the methodology laid down in part C of Annex V;
- (n) ‘typical value’ means an estimate of the representative greenhouse gas emission saving for a particular biofuel production pathway;
- (o) ‘default value’ means a value derived from a typical value by the application of pre-determined factors and that may, in circumstances specified in this Directive, be used in place of an actual value<sup>[F1];</sup>
- (p) ‘<sup>[F2]</sup>waste’ shall be defined as in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council<sup>(1)</sup>; substances that have been intentionally modified or contaminated to meet that definition are not covered by this definition;
- (q) ‘starch-rich crops’ means crops comprising mainly cereals (regardless of whether only the grains are used, or the whole plant, such as in the case of green maize, is used), tubers and root crops (such as potatoes, Jerusalem artichokes, sweet potatoes, cassava and yams), and corm crops (such as taro and cocoyam);
- (r) ‘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;
- (s) ‘non-food cellulosic material’ means feedstocks mainly composed of cellulose and hemicellulose, and having a lower lignin content than ligno-cellulosic material; it includes food and feed crop residues (such as straw, stover, husks and shells), grassy energy crops with a low starch content (such as ryegrass, switchgrass, miscanthus, giant cane and cover crops before and after main crops), industrial residues (including from food and feed crops after vegetal oils, sugars, starches and protein have been extracted), and material from biowaste;

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- (t) ‘processing residue’ means a substance that is not the end product(s) that a production process directly seeks to produce; it is not a primary aim of the production process and the process has not been deliberately modified to produce it;
- (u) ‘renewable liquid and gaseous transport fuels of non-biological origin’ means liquid or gaseous fuels other than biofuels whose energy content comes from renewable energy sources other than biomass, and which are used in transport;
- (v) ‘agricultural, aquaculture, fisheries and forestry residues’ means residues that are directly generated by agriculture, aquaculture, fisheries and forestry; they do not include residues from related industries or processing;
- (w) ‘low indirect land-use change-risk biofuels and bioliquids’ means biofuels and bioliquids, the feedstocks of which were produced within schemes which reduce the displacement of production for purposes other than for making biofuels and bioliquids and which were produced in accordance with the sustainability criteria for biofuels and bioliquids set out in Article 17.]

#### **Textual Amendments**

- F1** Substituted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).
- F2** Inserted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).

### *Article 3*

#### **Mandatory national overall targets and measures for the use of energy from renewable sources**

1 Each Member State shall ensure that the share of energy from renewable sources, calculated in accordance with Articles 5 to 11, in gross final consumption of energy in 2020 is at least its national overall target for the share of energy from renewable sources in that year, as set out in the third column of the table in part A of Annex I. Such mandatory national overall targets are consistent with a target of at least a 20 % share of energy from renewable sources in the Community’s gross final consumption of energy in 2020. In order to achieve the targets laid down in this Article more easily, each Member State shall promote and encourage energy efficiency and energy saving.

[<sup>F2</sup>For the purpose of compliance with the targets referred to in the first subparagraph of this paragraph, the maximum joint contribution from biofuels and bioliquids produced from cereal and other starch-rich crops, sugars and oil crops and from crops grown as main crops primarily for energy purposes on agricultural land shall be no more than the energy quantity corresponding to the maximum contribution as set out in paragraph 4(d).]

2 Member States shall introduce measures effectively designed to ensure that the share of energy from renewable sources equals or exceeds that shown in the indicative trajectory set out in part B of Annex I.

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3 In order to reach the targets set in paragraphs 1 and 2 of this Article Member States may, inter alia, apply the following measures:

- a support schemes;
- b measures of cooperation between different Member States and with third countries for achieving their national overall targets in accordance with Articles 5 to 11.

Without prejudice to Articles 87 and 88 of the Treaty, Member States shall have the right to decide, in accordance with Articles 5 to 11 of this Directive, to which extent they support energy from renewable sources which is produced in a different Member State.

4 Each Member State shall ensure that the share of energy from renewable sources in all forms of transport in 2020 is at least 10 % of the final consumption of energy in transport in that Member State.

For the purposes of this paragraph, the following provisions shall apply:

- [<sup>F1</sup>a for the calculation of the denominator, that is the total amount of energy consumed in transport for the purposes of the first subparagraph, only petrol, diesel, biofuels consumed in road and rail transport, and electricity, including electricity used for the production of renewable liquid and gaseous transport fuels of non-biological origin, shall be taken into account;]
- b for the calculation of the numerator, that is the amount of energy from renewable sources consumed in transport for the purposes of the first subparagraph, all types of energy from renewable sources consumed in all forms of transport shall be taken into account[<sup>F1</sup>.][<sup>F2</sup>This point shall be without prejudice to point (d) of this paragraph and Article 17(1)(a);]
- [<sup>F1</sup>c for the calculation of the contribution from electricity produced from renewable sources and consumed in all types of electric vehicles and for the production of renewable liquid and gaseous transport fuels of non-biological origin for the purpose of points (a) and (b), Member States may choose to use either the average share of electricity from renewable energy sources in the Union or the share of electricity from renewable energy sources in their own country as measured two years before the year in question. Furthermore, for the calculation of the electricity from renewable energy sources consumed by electrified rail transport, that consumption shall be considered to be 2,5 times the energy content of the input of electricity from renewable energy sources. For the calculation of the electricity from renewable energy sources consumed by electric road vehicles in point (b), that consumption shall be considered to be five times the energy content of the input of electricity from renewable energy sources;]
- [<sup>F2</sup>d for the calculation of biofuels in the numerator, the share of energy from biofuels produced from cereal and other starch-rich crops, sugars and oil crops and from crops grown as main crops primarily for energy purposes on agricultural land shall be no more than 7 % of the final consumption of energy in transport in the Member States in 2020.

Biofuels produced from feedstocks listed in Annex IX shall not count towards the limit set out in the first subparagraph of this point.

Member States may decide that the share of energy from biofuels produced from crops grown as main crops primarily for energy purposes on agricultural land, other than cereal and other starch-rich crops, sugars and oil crops, does not count towards the limit set out in the first subparagraph of this point, provided that:

- (i) verification of compliance with the sustainability criteria set out in Article 17(2) to (5) was carried out in accordance with Article 18; and
- (ii) those crops were grown on land that falls under point 8 of part C of Annex V and the corresponding bonus 'e<sub>B</sub>' set out in point 7 of part C of Annex V was

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included in the calculation of greenhouse gas emissions, for the purposes of showing compliance with Article 17(2).

- e each Member State shall seek to achieve the objective of there being a minimum level of consumption on their territory of biofuels produced from feedstocks and of other fuels, listed in part A of Annex IX. To that effect, by 6 April 2017, each Member State shall set a national target, which it shall endeavour to achieve. A reference value for this target is 0,5 percentage points in energy content of the share of energy from renewable sources in all forms of transport in 2020 referred to in the first subparagraph, to be met with biofuels produced from feedstocks and with other fuels, listed in part A of Annex IX. In addition, biofuels made from feedstocks not listed in Annex IX that were determined to be wastes, residues, non-food cellulosic material or ligno-cellulosic material by the competent national authorities and are used in existing installations prior to the adoption of Directive (EU) 2015/1513 of the European Parliament and of the Council<sup>(2)</sup>, may be counted towards the national target.

Member States may set a national target lower than the reference value of 0,5 percentage points, based on one or more of the following grounds:

- (i) objective factors such as the limited potential for the sustainable production of biofuels produced from feedstocks and of other fuels, listed in part A of Annex IX, or the limited availability of such biofuels at cost-efficient prices on the market;
- (ii) the specific technical or climatic characteristics of the national market for transport fuels, such as the composition and condition of the road vehicle fleet; or
- (iii) national policies allocating commensurate financial resources to incentivising energy efficiency and the use of electricity from renewable energy sources in transport.

When setting their national targets, Member States shall provide available information on the quantities of biofuels consumed from feedstocks and other fuels, listed in part A of Annex IX.

When setting policies for the promotion of the production of fuels from feedstocks listed in Annex IX, Member States shall have due regard to the waste hierarchy as established in Article 4 of Directive 2008/98/EC, including its provisions regarding life-cycle thinking on the overall impacts of the generation and management of different waste streams.

The Commission shall publish in accordance with Article 24 of this Directive:

- the national targets of the Member States,
  - where available, the Member States' plans for achieving the national targets,
  - where applicable, the grounds for differentiation of the national targets of the Member States as compared to the reference value, notified in accordance with Article 4(2) of Directive (EU) 2015/1513; and
  - a synthesis report on Member States' achievements towards their national targets;
- f biofuels produced from feedstocks listed in Annex IX shall be considered to be twice their energy content for the purpose of complying with the target set out in the first subparagraph.]

[<sup>F1</sup>By 31 December 2017, the Commission shall present, if appropriate, a proposal permitting, subject to certain conditions, the whole amount of the electricity originating

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from renewable sources used to power all types of electric vehicles, and for the production of renewable liquid and gaseous transport fuels of non-biological origin to be considered.]

By 31 December 2011, the Commission shall also present, if appropriate, a proposal for a methodology for calculating the contribution of hydrogen originating from renewable sources in the total fuel mix.

[<sup>F25</sup> With a view to minimising the risk of single consignments being claimed more than once in the Union, Member States and the Commission shall endeavour to strengthen cooperation among national systems and between national systems and voluntary schemes established pursuant to Article 18, including where appropriate the exchange of data. To prevent materials from being intentionally modified or discarded in order to fall under Annex IX, Member States shall encourage the development and use of systems which track and trace feedstocks and the resulting biofuels over the whole value chain. Member States shall ensure that when fraud is detected, appropriate action is taken. Member States shall by 31 December 2017, and every two years thereafter, report on the measures they have taken if they have not provided equivalent information on reliability and protection against fraud in their reports on progress in the promotion and use of energy from renewable sources drawn up in accordance with Article 22(1)(d).

The Commission shall be empowered to adopt delegated acts in accordance with Article 25a to amend the list of feedstocks in part A of Annex IX in order to add feedstocks, but not to remove them. The Commission shall adopt a separate delegated act in respect of each feedstock to be added to the list in part A of Annex IX. Each delegated act shall be based on an analysis of the latest scientific and technical progress, taking due account of the principles of the waste hierarchy established in Directive 2008/98/EC, and supporting the conclusion that the feedstock in question does not create an additional demand for land or cause significant distortive effects on markets for (by-)products, wastes or residues, that it delivers substantial greenhouse gas emission savings compared to fossil fuels, and that it does not risk creating negative impacts on the environment and biodiversity.]

#### Textual Amendments

- F1** Substituted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).
- F2** Inserted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).

### Article 4

#### National renewable energy action plans

1 Each Member State shall adopt a national renewable energy action plan. The national renewable energy action plans shall set out Member States' national targets for the share of energy from renewable sources consumed in transport, electricity and heating and cooling in 2020, taking into account the effects of other policy measures relating to energy efficiency on final consumption of energy, and adequate measures to be taken to achieve those national

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overall targets, including cooperation between local, regional and national authorities, planned statistical transfers or joint projects, national policies to develop existing biomass resources and mobilise new biomass resources for different uses, and the measures to be taken to fulfil the requirements of Articles 13 to 19.

By 30 June 2009, the Commission shall adopt a template for the national renewable energy action plans. That template shall comprise the minimum requirements set out in Annex VI. Member States shall comply with that template in the presentation of their national renewable energy action plans.

2 Member States shall notify their national renewable energy action plans to the Commission by 30 June 2010.

3 Each Member State shall publish and notify to the Commission, six months before its national renewable energy action plan is due, a forecast document indicating:

- a its estimated excess production of energy from renewable sources compared to the indicative trajectory which could be transferred to other Member States in accordance with Articles 6 to 11, as well as its estimated potential for joint projects, until 2020; and
- b its estimated demand for energy from renewable sources to be satisfied by means other than domestic production until 2020.

That information may include elements relating to cost and benefits and financing. That forecast shall be updated in the reports of the Member States as set out in Article 22(1) (l) and (m).

4 A Member State whose share of energy from renewable sources fell below the indicative trajectory in the immediately preceding two-year period set out in part B of Annex I, shall submit an amended national renewable energy action plan to the Commission by 30 June of the following year, setting out adequate and proportionate measures to rejoin, within a reasonable timetable, the indicative trajectory in part B of Annex I.

The Commission may, if the Member State has not met the indicative trajectory by a limited margin, and taking due account of the current and future measures taken by the Member State, adopt a decision to release the Member State from the obligation to submit an amended national renewable energy action plan.

5 The Commission shall evaluate the national renewable energy action plans, notably the adequacy of the measures envisaged by the Member State in accordance with Article 3(2). In response to a national renewable energy action plan or to an amended national renewable energy action plan, the Commission may issue a recommendation.

6 The Commission shall send to the European Parliament the national renewable energy action plans and the forecast documents in the form as made public on the transparency platform as referred to in Article 24(2), as well as any recommendation as referred to in paragraph 5 of this Article.

#### *Article 5*

### **Calculation of the share of energy from renewable sources**

1 The gross final consumption of energy from renewable sources in each Member State shall be calculated as the sum of:

- a gross final consumption of electricity from renewable energy sources;
- b gross final consumption of energy from renewable sources for heating and cooling; and
- c final consumption of energy from renewable sources in transport.

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Gas, electricity and hydrogen from renewable energy sources shall be considered only once in point (a), (b), or (c) of the first subparagraph, for calculating the share of gross final consumption of energy from renewable sources.

Subject to the second subparagraph of Article 17(1), biofuels and bioliquids that do not fulfil the sustainability criteria set out in Article 17(2) to (6) shall not be taken into account.

2 Where a Member State considers that, due to force majeure, it is impossible for it to meet its share of energy from renewable sources in gross final consumption of energy in 2020 set out in the third column of the table in Annex I, it shall inform the Commission accordingly as soon as possible. The Commission shall adopt a decision on whether force majeure has been demonstrated. In the event that the Commission decides that force majeure has been demonstrated, it shall determine what adjustment shall be made to the Member State's gross final consumption of energy from renewable sources for the year 2020.

3 For the purposes of paragraph 1(a), gross final consumption of electricity from renewable energy sources shall be calculated as the quantity of electricity produced in a Member State from renewable energy sources, excluding the production of electricity in pumped storage units from water that has previously been pumped uphill.

In multi-fuel plants using renewable and conventional sources, only the part of electricity produced from renewable energy sources shall be taken into account. For the purposes of this calculation, the contribution of each energy source shall be calculated on the basis of its energy content.

The electricity generated by hydropower and wind power shall be accounted for in accordance with the normalisation rules set out in Annex II.

4 For the purposes of paragraph 1(b), the gross final consumption of energy from renewable sources for heating and cooling shall be calculated as the quantity of district heating and cooling produced in a Member State from renewable sources, plus the consumption of other energy from renewable sources in industry, households, services, agriculture, forestry and fisheries, for heating, cooling and processing purposes.

In multi-fuel plants using renewable and conventional sources, only the part of heating and cooling produced from renewable energy sources shall be taken into account. For the purposes of this calculation, the contribution of each energy source shall be calculated on the basis of its energy content.

Aerothermal, geothermal and hydrothermal heat energy captured by heat pumps shall be taken into account for the purposes of paragraph 1(b) provided that the final energy output significantly exceeds the primary energy input required to drive the heat pumps. The quantity of heat to be considered as energy from renewable sources for the purposes of this Directive shall be calculated in accordance with the methodology laid down in Annex VII.

Thermal energy generated by passive energy systems, under which lower energy consumption is achieved passively through building design or from heat generated by energy from non-renewable sources, shall not be taken into account for the purposes of paragraph 1(b).

[<sup>F15</sup> The Commission shall be empowered to adopt delegated acts in accordance with Article 25a concerning the adaptation of the energy content of transport fuels, as set out in Annex III, to scientific and technical progress.]



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6 The share of energy from renewable sources shall be calculated as the gross final consumption of energy from renewable sources divided by the gross final consumption of energy from all energy sources, expressed as a percentage.

For the purposes of the first subparagraph, the sum referred to in paragraph 1 shall be adjusted in accordance with Articles 6, 8, 10 and 11.

In calculating a Member State's gross final energy consumption for the purpose of measuring its compliance with the targets and indicative trajectory laid down in this Directive, the amount of energy consumed in aviation shall, as a proportion of that Member State's gross final consumption of energy, be considered to be no more than 6,18 %. For Cyprus and Malta the amount of energy consumed in aviation shall, as a proportion of those Member States' gross final consumption of energy, be considered to be no more than 4,12 %.

7 The methodology and definitions used in the calculation of the share of energy from renewable sources shall be those of Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics<sup>(3)</sup>.

Member States shall ensure coherence of statistical information used in calculating those sectoral and overall shares and statistical information reported to the Commission under Regulation (EC) No 1099/2008.

#### **Textual Amendments**

- F1** Substituted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).

### *Article 6*

#### **Statistical transfers between Member States**

[<sup>F1</sup> Member States may agree on and may make arrangements for the statistical transfer of a specified amount of energy from renewable sources from one Member State to another Member State. The transferred quantity shall be:

- a deducted from the amount of energy from renewable sources that is taken into account in measuring compliance by the Member State making the transfer with the requirements of Article 3(1), (2) and (4); and
- b added to the amount of energy from renewable sources that is taken into account in measuring compliance by another Member State accepting the transfer with the requirements of Article 3(1), (2) and (4).

2 The arrangements referred to in paragraph 1 of this Article in respect of Article 3(1), (2) and (4) may have a duration of one or more years. They shall be notified to the Commission not later than three months after the end of each year in which they have effect. The information sent to the Commission shall include the quantity and price of the energy involved.]

3 Transfers shall become effective only after all Member States involved in the transfer have notified the transfer to the Commission.

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#### Textual Amendments

- F1** Substituted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).

### Article 7

#### Joint projects between Member States

1 Two or more Member States may cooperate on all types of joint projects relating to the production of electricity, heating or cooling from renewable energy sources. That cooperation may involve private operators.

2 Member States shall notify the Commission of the proportion or amount of electricity, heating or cooling from renewable energy sources produced by any joint project in their territory, that became operational after 25 June 2009, or by the increased capacity of an installation that was refurbished after that date, which is to be regarded as counting towards the national overall target of another Member State for the purposes of measuring compliance with the requirements of this Directive.

3 The notification referred to in paragraph 2 shall:

- a describe the proposed installation or identify the refurbished installation;
- b specify the proportion or amount of electricity or heating or cooling produced from the installation which is to be regarded as counting towards the national overall target of another Member State;
- c identify the Member State in whose favour the notification is being made; and
- d specify the period, in whole calendar years, during which the electricity or heating or cooling produced by the installation from renewable energy sources is to be regarded as counting towards the national overall target of the other Member State.

4 The period specified under paragraph 3(d) shall not extend beyond 2020. The duration of a joint project may extend beyond 2020.

5 A notification made under this Article shall not be varied or withdrawn without the joint agreement of the Member State making the notification and the Member State identified in accordance with paragraph 3(c).

### Article 8

#### Effects of joint projects between Member States

1 Within three months of the end of each year falling within the period specified under Article 7(3)(d), the Member State that made the notification under Article 7 shall issue a letter of notification stating:

- a the total amount of electricity or heating or cooling produced during the year from renewable energy sources by the installation which was the subject of the notification under Article 7; and

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- b the amount of electricity or heating or cooling produced during the year from renewable energy sources by that installation which is to count towards the national overall target of another Member State in accordance with the terms of the notification.
- 2 The notifying Member State shall send the letter of notification to the Member State in whose favour the notification was made and to the Commission.
- 3 For the purposes of measuring target compliance with the requirements of this Directive concerning national overall targets, the amount of electricity or heating or cooling from renewable energy sources notified in accordance with paragraph 1(b) shall be:
- a deducted from the amount of electricity or heating or cooling from renewable energy sources that is taken into account, in measuring compliance by the Member State issuing the letter of notification under paragraph 1; and
  - b added to the amount of electricity or heating or cooling from renewable energy sources that is taken into account, in measuring compliance by the Member State receiving the letter of notification in accordance with paragraph 2.

#### *Article 9*

### **Joint projects between Member States and third countries**

- 1 One or more Member States may cooperate with one or more third countries on all types of joint projects regarding the production of electricity from renewable energy sources. Such cooperation may involve private operators.
- 2 Electricity from renewable energy sources produced in a third country shall be taken into account only for the purposes of measuring compliance with the requirements of this Directive concerning national overall targets if the following conditions are met:
- a the electricity is consumed in the Community, a requirement that is deemed to be met where:
    - (i) an equivalent amount of electricity to the electricity accounted for has been firmly nominated to the allocated interconnection capacity by all responsible transmission system operators in the country of origin, the country of destination and, if relevant, each third country of transit;
    - (ii) an equivalent amount of electricity to the electricity accounted for has been firmly registered in the schedule of balance by the responsible transmission system operator on the Community side of an interconnector; and
    - (iii) the nominated capacity and the production of electricity from renewable energy sources by the installation referred to in paragraph 2(b) refer to the same period of time;
  - b the electricity is produced by a newly constructed installation that became operational after 25 June 2009 or by the increased capacity of an installation that was refurbished after that date, under a joint project as referred to in paragraph 1; and
  - c the amount of electricity produced and exported has not received support from a support scheme of a third country other than investment aid granted to the installation.
- 3 Member States may apply to the Commission, for the purposes of Article 5, for account to be taken of electricity from renewable energy sources produced and consumed in a third country, in the context of the construction of an interconnector with a very long lead-time between a Member State and a third country if the following conditions are met:
- a construction of the interconnector started by 31 December 2016;

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- b it is not possible for the interconnector to become operational by 31 December 2020;
- c it is possible for the interconnector to become operational by 31 December 2022;
- d after it becomes operational, the interconnector will be used for the export to the Community, in accordance with paragraph 2, of electricity generated from renewable energy sources;
- e the application relates to a joint project that fulfils the criteria in points (b) and (c) of paragraph 2 and that will use the interconnector after it becomes operational, and to a quantity of electricity that is no greater than the quantity that will be exported to the Community after the interconnector becomes operational.

4 The proportion or amount of electricity produced by any installation in the territory of a third country, which is to be regarded as counting towards the national overall target of one or more Member States for the purposes of measuring compliance with Article 3, shall be notified to the Commission. When more than one Member State is concerned, the distribution between Member States of this proportion or amount shall be notified to the Commission. This proportion or amount shall not exceed the proportion or amount actually exported to, and consumed in, the Community, corresponding to the amount referred to in paragraph 2(a)(i) and (ii) of this Article and meeting the conditions as set out in its paragraph (2)(a). The notification shall be made by each Member State towards whose overall national target the proportion or amount of electricity is to count.

5 The notification referred to in paragraph 4 shall:

- a describe the proposed installation or identify the refurbished installation;
- b specify the proportion or amount of electricity produced from the installation which is to be regarded as counting towards the national target of a Member State as well as, subject to confidentiality requirements, the corresponding financial arrangements;
- c specify the period, in whole calendar years, during which the electricity is to be regarded as counting towards the national overall target of the Member State; and
- d include a written acknowledgement of points (b) and (c) by the third country in whose territory the installation is to become operational and the proportion or amount of electricity produced by the installation which will be used domestically by that third country.

6 The period specified under paragraph 5(c) shall not extend beyond 2020. The duration of a joint project may extend beyond 2020.

7 A notification made under this Article may not be varied or withdrawn without the joint agreement of the Member State making the notification and the third country that has acknowledged the joint project in accordance with paragraph 5(d).

8 Member States and the Community shall encourage the relevant bodies of the Energy Community Treaty to take, in conformity with the Energy Community Treaty, the measures which are necessary so that the Contracting Parties to that Treaty can apply the provisions on cooperation laid down in this Directive between Member States.

#### *Article 10*

##### **Effects of joint projects between Member States and third countries**

1 Within three months of the end of each year falling within the period specified under Article 9(5)(c), the Member State having made the notification under Article 9 shall issue a letter of notification stating:

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- a the total amount of electricity produced during that year from renewable energy sources by the installation which was the subject of the notification under Article 9;
  - b the amount of electricity produced during the year from renewable energy sources by that installation which is to count towards its national overall target in accordance with the terms of the notification under Article 9; and
  - c proof of compliance with the conditions set out in Article 9(2).
- 2 The Member State shall send the letter of notification to the third country which has acknowledged the project in accordance with Article 9(5)(d) and to the Commission.
- 3 For the purposes of measuring target compliance with the requirements of this Directive concerning national overall targets, the amount of electricity produced from renewable energy sources notified in accordance with paragraph 1(b) shall be added to the amount of energy from renewable sources that is taken into account, in measuring compliance by the Member State issuing the letter of notification.

#### *Article 11*

### **Joint support schemes**

- 1 Without prejudice to the obligations of Member States under Article 3, two or more Member States may decide, on a voluntary basis, to join or partly coordinate their national support schemes. In such cases, a certain amount of energy from renewable sources produced in the territory of one participating Member State may count towards the national overall target of another participating Member State if the Member States concerned:
- a make a statistical transfer of specified amounts of energy from renewable sources from one Member State to another Member State in accordance with Article 6; or
  - b set up a distribution rule agreed by participating Member States that allocates amounts of energy from renewable sources between the participating Member States. Such a rule shall be notified to the Commission no later than three months after the end of the first year in which it takes effect.
- 2 Within three months of the end of each year each Member State having made a notification under paragraph 1(b) shall issue a letter of notification stating the total amount of electricity or heating or cooling from renewable energy sources produced during the year which is to be the subject of the distribution rule.
- 3 For the purposes of measuring compliance with the requirements of this Directive concerning national overall targets, the amount of electricity or heating or cooling from renewable energy sources notified in accordance with paragraph 2 shall be reallocated between the concerned Member States in accordance with the notified distribution rule.

#### *Article 12*

### **Capacity increases**

For the purpose of Article 7(2) and Article 9(2)(b), units of energy from renewable sources imputable to an increase in the capacity of an installation shall be treated as if they were produced by a separate installation becoming operational at the moment at which the increase of capacity occurred.

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### Article 13

#### **Administrative procedures, regulations and codes**

1 Member States shall ensure that any national rules concerning the authorisation, certification and licensing procedures that are applied to plants and associated transmission and distribution network infrastructures for the production of electricity, heating or cooling from renewable energy sources, and to the process of transformation of biomass into biofuels or other energy products, are proportionate and necessary.

Member States shall, in particular, take the appropriate steps to ensure that:

- a subject to differences between Member States in their administrative structures and organisation, the respective responsibilities of national, regional and local administrative bodies for authorisation, certification and licensing procedures including spatial planning are clearly coordinated and defined, with transparent timetables for determining planning and building applications;
- b comprehensive information on the processing of authorisation, certification and licensing applications for renewable energy installations and on available assistance to applicants are made available at the appropriate level;
- c administrative procedures are streamlined and expedited at the appropriate administrative level;
- d rules governing authorisation, certification and licensing are objective, transparent, proportionate, do not discriminate between applicants and take fully into account the particularities of individual renewable energy technologies;
- e administrative charges paid by consumers, planners, architects, builders and equipment and system installers and suppliers are transparent and cost-related; and
- f simplified and less burdensome authorisation procedures, including through simple notification if allowed by the applicable regulatory framework, are established for smaller projects and for decentralised devices for producing energy from renewable sources, where appropriate.

2 Member States shall clearly define any technical specifications which must be met by renewable energy equipment and systems in order to benefit from support schemes. Where European standards exist, including eco-labels, energy labels and other technical reference systems established by the European standardisation bodies, such technical specifications shall be expressed in terms of those standards. Such technical specifications shall not prescribe where the equipment and systems are to be certified and should not impede the operation of the internal market.

3 Member States shall recommend to all actors, in particular local and regional administrative bodies to ensure equipment and systems are installed for the use of electricity, heating and cooling from renewable energy sources and for district heating and cooling when planning, designing, building and renovating industrial or residential areas. Member States shall, in particular, encourage local and regional administrative bodies to include heating and cooling from renewable energy sources in the planning of city infrastructure, where appropriate.

4 Member States shall introduce in their building regulations and codes appropriate measures in order to increase the share of all kinds of energy from renewable sources in the building sector.

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In establishing such measures or in their regional support schemes, Member States may take into account national measures relating to substantial increases in energy efficiency and relating to cogeneration and to passive, low or zero-energy buildings.

By 31 December 2014, Member States shall, in their building regulations and codes or by other means with equivalent effect, where appropriate, require the use of minimum levels of energy from renewable sources in new buildings and in existing buildings that are subject to major renovation. Member States shall permit those minimum levels to be fulfilled, inter alia, through district heating and cooling produced using a significant proportion of renewable energy sources.

The requirements of the first subparagraph shall apply to the armed forces, only to the extent that its application does not cause any conflict with the nature and primary aim of the activities of the armed forces and with the exception of material used exclusively for military purposes.

5 Member States shall ensure that new public buildings, and existing public buildings that are subject to major renovation, at national, regional and local level fulfil an exemplary role in the context of this Directive from 1 January 2012 onwards. Member States may, inter alia, allow that obligation to be fulfilled by complying with standards for zero energy housing, or by providing that the roofs of public or mixed private-public buildings are used by third parties for installations that produce energy from renewable sources.

6 With respect to their building regulations and codes, Member States shall promote the use of renewable energy heating and cooling systems and equipment that achieve a significant reduction of energy consumption. Member States shall use energy or eco-labels or other appropriate certificates or standards developed at national or Community level, where these exist, as the basis for encouraging such systems and equipment.

In the case of biomass, Member States shall promote conversion technologies that achieve a conversion efficiency of at least 85 % for residential and commercial applications and at least 70 % for industrial applications.

In the case of heat pumps, Member States shall promote those that fulfil the minimum requirements of eco-labelling established in Commission Decision 2007/742/EC of 9 November 2007 establishing the ecological criteria for the award of the Community eco-label to electrically driven, gas driven or gas absorption heat pumps<sup>(4)</sup>.

In the case of solar thermal energy, Member States shall promote certified equipment and systems based on European standards where these exist, including eco-labels, energy labels and other technical reference systems established by the European standardisation bodies.

In assessing the conversion efficiency and input/output ratio of systems and equipment for the purposes of this paragraph, Member States shall use Community or, in their absence, international procedures if such procedures exist.

#### *Article 14*

### **Information and training**

1 Member States shall ensure that information on support measures is made available to all relevant actors, such as consumers, builders, installers, architects, and suppliers of heating, cooling and electricity equipment and systems and of vehicles compatible with the use of energy from renewable sources.

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2 Member States shall ensure that information on the net benefits, cost and energy efficiency of equipment and systems for the use of heating, cooling and electricity from renewable energy sources is made available either by the supplier of the equipment or system or by the national competent authorities.

3 Member States shall ensure that certification schemes or equivalent qualification schemes become or are available by 31 December 2012 for installers of small-scale biomass boilers and stoves, solar photovoltaic and solar thermal systems, shallow geothermal systems and heat pumps. Those schemes may take into account existing schemes and structures as appropriate, and shall be based on the criteria laid down in Annex IV. Each Member State shall recognise certification awarded by other Member States in accordance with those criteria.

4 Member States shall make available to the public information on certification schemes or equivalent qualification schemes as referred to in paragraph 3. Member States may also make available the list of installers who are qualified or certified in accordance with the provisions referred to in paragraph 3.

5 Member States shall ensure that guidance is made available to all relevant actors, notably for planners and architects so that they are able properly to consider the optimal combination of renewable energy sources, of high-efficiency technologies and of district heating and cooling when planning, designing, building and renovating industrial or residential areas.

6 Member States, with the participation of local and regional authorities, shall develop suitable information, awareness-raising, guidance or training programmes in order to inform citizens of the benefits and practicalities of developing and using energy from renewable sources.

#### *Article 15*

### **Guarantees of origin of electricity, heating and cooling produced from renewable energy sources**

1 For the purposes of proving to final customers the share or quantity of energy from renewable sources in an energy supplier's energy mix in accordance with Article 3(6) of Directive 2003/54/EC, Member States shall ensure that the origin of electricity produced from renewable energy sources can be guaranteed as such within the meaning of this Directive, in accordance with objective, transparent and non-discriminatory criteria.

2 To that end, Member States shall ensure that a guarantee of origin is issued in response to a request from a producer of electricity from renewable energy sources. Member States may arrange for guarantees of origin to be issued in response to a request from producers of heating and cooling from renewable energy sources. Such an arrangement may be made subject to a minimum capacity limit. A guarantee of origin shall be of the standard size of 1 MWh. No more than one guarantee of origin shall be issued in respect of each unit of energy produced.

Member States shall ensure that the same unit of energy from renewable sources is taken into account only once.

Member States may provide that no support be granted to a producer when that producer receives a guarantee of origin for the same production of energy from renewable sources.

The guarantee of origin shall have no function in terms of a Member State's compliance with Article 3. Transfers of guarantees of origin, separately or together with the physical transfer of energy, shall have no effect on the decision of Member States to use statistical transfers, joint projects or joint support schemes for target compliance or on



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the calculation of the gross final consumption of energy from renewable sources in accordance with Article 5.

3 Any use of a guarantee of origin shall take place within 12 months of production of the corresponding energy unit. A guarantee of origin shall be cancelled once it has been used.

4 Member States or designated competent bodies shall supervise the issuance, transfer and cancellation of guarantees of origin. The designated competent bodies shall have non-overlapping geographical responsibilities, and be independent of production, trade and supply activities.

5 Member States or the designated competent bodies shall put in place appropriate mechanisms to ensure that guarantees of origin shall be issued, transferred and cancelled electronically and are accurate, reliable and fraud-resistant.

6 A guarantee of origin shall specify at least:

- a the energy source from which the energy was produced and the start and end dates of production;
- b whether it relates to:
  - (i) electricity; or
  - (ii) heating or cooling;
- c the identity, location, type and capacity of the installation where the energy was produced;
- d whether and to what extent the installation has benefited from investment support, whether and to what extent the unit of energy has benefited in any other way from a national support scheme, and the type of support scheme;
- e the date on which the installation became operational; and
- f the date and country of issue and a unique identification number.

7 Where an electricity supplier is required to prove the share or quantity of energy from renewable sources in its energy mix for the purposes of Article 3(6) of Directive 2003/54/EC, it may do so by using its guarantees of origin.

8 The amount of energy from renewable sources corresponding to guarantees of origin transferred by an electricity supplier to a third party shall be deducted from the share of energy from renewable sources in its energy mix for the purposes of Article 3(6) of Directive 2003/54/EC.

9 Member States shall recognise guarantees of origin issued by other Member States in accordance with this Directive exclusively as proof of the elements referred to in paragraph 1 and paragraph 6(a) to (f). A Member State may refuse to recognise a guarantee of origin only when it has well-founded doubts about its accuracy, reliability or veracity. The Member State shall notify the Commission of such a refusal and its justification.

10 If the Commission finds that a refusal to recognise a guarantee of origin is unfounded, the Commission may adopt a decision requiring the Member State in question to recognise it.

11 A Member State may introduce, in conformity with Community law, objective, transparent and non-discriminatory criteria for the use of guarantees of origin in complying with the obligations laid down in Article 3(6) of Directive 2003/54/EC.

12 Where energy suppliers market energy from renewable sources to consumers with a reference to environmental or other benefits of energy from renewable sources, Member States may require those energy suppliers to make available, in summary form, information on the

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amount or share of energy from renewable sources that comes from installations or increased capacity that became operational after 25 June 2009.

## Article 16

### Access to and operation of the grids

1 Member States shall take the appropriate steps to develop transmission and distribution grid infrastructure, intelligent networks, storage facilities and the electricity system, in order to allow the secure operation of the electricity system as it accommodates the further development of electricity production from renewable energy sources, including interconnection between Member States and between Member States and third countries. Member States shall also take appropriate steps to accelerate authorisation procedures for grid infrastructure and to coordinate approval of grid infrastructure with administrative and planning procedures.

2 Subject to requirements relating to the maintenance of the reliability and safety of the grid, based on transparent and non-discriminatory criteria defined by the competent national authorities:

- a Member States shall ensure that transmission system operators and distribution system operators in their territory guarantee the transmission and distribution of electricity produced from renewable energy sources;
- b Member States shall also provide for either priority access or guaranteed access to the grid-system of electricity produced from renewable energy sources;
- c Member States shall ensure that when dispatching electricity generating installations, transmission system operators shall give priority to generating installations using renewable energy sources in so far as the secure operation of the national electricity system permits and based on transparent and non-discriminatory criteria. Member States shall ensure that appropriate grid and market-related operational measures are taken in order to minimise the curtailment of electricity produced from renewable energy sources. If significant measures are taken to curtail the renewable energy sources in order to guarantee the security of the national electricity system and security of energy supply, Member States shall ensure that the responsible system operators report to the competent regulatory authority on those measures and indicate which corrective measures they intend to take in order to prevent inappropriate curtailments.

3 Member States shall require transmission system operators and distribution system operators to set up and make public their standard rules relating to the bearing and sharing of costs of technical adaptations, such as grid connections and grid reinforcements, improved operation of the grid and rules on the non-discriminatory implementation of the grid codes, which are necessary in order to integrate new producers feeding electricity produced from renewable energy sources into the interconnected grid.

Those rules shall be based on objective, transparent and non-discriminatory criteria taking particular account of all the costs and benefits associated with the connection of those producers to the grid and of the particular circumstances of producers located in peripheral regions and in regions of low population density. Those rules may provide for different types of connection.

4 Where appropriate, Member States may require transmission system operators and distribution system operators to bear, in full or in part, the costs referred to in paragraph 3. Member States shall review and take the necessary measures to improve the frameworks and

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rules for the bearing and sharing of costs referred to in paragraph 3 by 30 June 2011 and every two years thereafter to ensure the integration of new producers as referred to in that paragraph.

5 Member States shall require transmission system operators and distribution system operators to provide any new producer of energy from renewable sources wishing to be connected to the system with the comprehensive and necessary information required, including:

- a a comprehensive and detailed estimate of the costs associated with the connection;
- b a reasonable and precise timetable for receiving and processing the request for grid connection;
- c a reasonable indicative timetable for any proposed grid connection.

Member States may allow producers of electricity from renewable energy sources wishing to be connected to the grid to issue a call for tender for the connection work.

6 The sharing of costs referred in paragraph 3 shall be enforced by a mechanism based on objective, transparent and non-discriminatory criteria taking into account the benefits which initially and subsequently connected producers as well as transmission system operators and distribution system operators derive from the connections.

7 Member States shall ensure that the charging of transmission and distribution tariffs does not discriminate against electricity from renewable energy sources, including in particular electricity from renewable energy sources produced in peripheral regions, such as island regions, and in regions of low population density. Member States shall ensure that the charging of transmission and distribution tariffs does not discriminate against gas from renewable energy sources.

8 Member States shall ensure that tariffs charged by transmission system operators and distribution system operators for the transmission and distribution of electricity from plants using renewable energy sources reflect realisable cost benefits resulting from the plant's connection to the network. Such cost benefits could arise from the direct use of the low-voltage grid.

9 Where relevant, Member States shall assess the need to extend existing gas network infrastructure to facilitate the integration of gas from renewable energy sources.

10 Where relevant, Member States shall require transmission system operators and distribution system operators in their territory to publish technical rules in line with Article 6 of Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning the common rules for the internal market in natural gas<sup>(5)</sup>, in particular regarding network connection rules that include gas quality, gas odoration and gas pressure requirements. Member States shall also require transmission and distribution system operators to publish the connection tariffs to connect renewable gas sources based on transparent and non-discriminatory criteria.

11 Member States in their national renewable energy action plans shall assess the necessity to build new infrastructure for district heating and cooling produced from renewable energy sources in order to achieve the 2020 national target referred to in Article 3(1). Subject to that assessment, Member States shall, where relevant, take steps with a view to developing a district heating infrastructure to accommodate the development of heating and cooling production from large biomass, solar and geothermal facilities.

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## Article 17

### Sustainability criteria for biofuels and bioliquids

1 Irrespective of whether the raw materials were cultivated inside or outside the territory of the Community, energy from biofuels and bioliquids shall be taken into account for the purposes referred to in points (a), (b) and (c) only if they fulfil the sustainability criteria set out in paragraphs 2 to 6:

- a measuring compliance with the requirements of this Directive concerning national targets;
- b measuring compliance with renewable energy obligations;
- c eligibility for financial support for the consumption of biofuels and bioliquids.

However, biofuels and bioliquids produced from waste and residues, other than agricultural, aquaculture, fisheries and forestry residues, need only fulfil the sustainability criteria set out in paragraph 2 in order to be taken into account for the purposes referred to in points (a), (b) and (c).

[<sup>F12</sup> The greenhouse gas emission saving from the use of biofuels and bioliquids taken into account for the purposes referred to in paragraph 1 shall be at least 60 % for biofuels and bioliquids produced in installations starting operation after 5 October 2015. An installation shall be considered to be in operation if the physical production of biofuels or bioliquids has taken place.

In the case of installations that were in operation on or before 5 October 2015, for the purposes referred to in paragraph 1, biofuels and bioliquids shall achieve a greenhouse gas emission saving of at least 35 % until 31 December 2017 and at least 50 % from 1 January 2018.

The greenhouse gas emission saving from the use of biofuels and bioliquids shall be calculated in accordance with Article 19(1).]

3 Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from raw material obtained from land with high biodiversity value, namely land that had one of the following statuses in or after January 2008, whether or not the land continues to have that status:

- a primary forest and other wooded land, namely forest and other wooded land of native species, where there is no clearly visible indication of human activity and the ecological processes are not significantly disturbed;
- b areas designated:
  - (i) by law or by the relevant competent authority for nature protection purposes; or
  - (ii) for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by intergovernmental organisations or the International Union for the Conservation of Nature, subject to their recognition in accordance with the second subparagraph of Article 18(4);

unless evidence is provided that the production of that raw material did not interfere with those nature protection purposes;

- c highly biodiverse grassland that is:

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- (i) natural, namely grassland that would remain grassland in the absence of human intervention and which maintains the natural species composition and ecological characteristics and processes; or
- (ii) non-natural, namely grassland that would cease to be grassland in the absence of human intervention and which is species-rich and not degraded, unless evidence is provided that the harvesting of the raw material is necessary to preserve its grassland status.

[<sup>F3</sup>The Commission shall establish the criteria and geographic ranges to determine which grassland shall be covered by point (c) of the first subparagraph. Those measures, designed to amend non-essential elements of this Directive, by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(4).]

4 Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from raw material obtained from land with high carbon stock, namely land that had one of the following statuses in January 2008 and no longer has that status:

- a wetlands, namely land that is covered with or saturated by water permanently or for a significant part of the year;
- b continuously forested areas, namely land spanning more than one hectare with trees higher than five metres and a canopy cover of more than 30 %, or trees able to reach those thresholds in situ;
- c land spanning more than one hectare with trees higher than five metres and a canopy cover of between 10 % and 30 %, or trees able to reach those thresholds in situ, unless evidence is provided that the carbon stock of the area before and after conversion is such that, when the methodology laid down in part C of Annex V is applied, the conditions laid down in paragraph 2 of this Article would be fulfilled.

The provisions of this paragraph shall not apply if, at the time the raw material was obtained, the land had the same status as it had in January 2008.

5 Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from raw material obtained from land that was peatland in January 2008, unless evidence is provided that the cultivation and harvesting of that raw material does not involve drainage of previously undrained soil.

6 Agricultural raw materials cultivated in the Community and used for the production of biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall be obtained in accordance with the requirements and standards under the provisions referred to under the heading 'Environment' in part A and in point 9 of Annex II to Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers<sup>(6)</sup> and in accordance with the minimum requirements for good agricultural and environmental condition defined pursuant to Article 6(1) of that Regulation.

7 The Commission shall, every two years, report to the European Parliament and the Council, in respect of both third countries and Member States that are a significant source of biofuels or of raw material for biofuels consumed within the Community, on national measures taken to respect the sustainability criteria set out in paragraphs 2 to 5 and for soil, water and air protection. The first report shall be submitted in 2012.

The Commission shall, every two years, report to the European Parliament and the Council on the impact on social sustainability in the Community and in third countries

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of increased demand for biofuel, on the impact of Community biofuel policy on the availability of foodstuffs at affordable prices, in particular for people living in developing countries, and wider development issues. Reports shall address the respect of land-use rights. They shall state, both for third countries and Member States that are a significant source of raw material for biofuel consumed within the Community, whether the country has ratified and implemented each of the following Conventions of the International Labour Organisation:

- Convention concerning Forced or Compulsory Labour (No 29),
- Convention concerning Freedom of Association and Protection of the Right to Organise (No 87),
- Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (No 98),
- Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value (No 100),
- Convention concerning the Abolition of Forced Labour (No 105),
- Convention concerning Discrimination in Respect of Employment and Occupation (No 111),
- Convention concerning Minimum Age for Admission to Employment (No 138),
- Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No 182).

Those reports shall state, both for third countries and Member States that are a significant source of raw material for biofuel consumed within the Community, whether the country has ratified and implemented:

- the Cartagena Protocol on Biosafety,
- the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

The first report shall be submitted in 2012. The Commission shall, if appropriate, propose corrective action, in particular if evidence shows that biofuel production has a significant impact on food prices.

8 For the purposes referred to in points (a), (b) and (c) of paragraph 1, Member States shall not refuse to take into account, on other sustainability grounds, biofuels and bioliquids obtained in compliance with this Article.

9 The Commission shall report on requirements for a sustainability scheme for energy uses of biomass, other than biofuels and bioliquids, by 31 December 2009. That report shall be accompanied, where appropriate, by proposals for a sustainability scheme for other energy uses of biomass, to the European Parliament and the Council. That report and any proposals contained therein shall be based on the best available scientific evidence, taking into account new developments in innovative processes. If the analysis done for that purpose demonstrates that it would be appropriate to introduce amendments, in relation to forest biomass, in the calculation methodology in Annex V or in the sustainability criteria relating to carbon stocks applied to biofuels and bioliquids, the Commission shall, where appropriate, make proposals to the European Parliament and Council at the same time in this regard.

#### **Textual Amendments**

- F1** Substituted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).

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**F3** Deleted by Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 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 (Text with EEA relevance).

## Article 18

### Verification of compliance with the sustainability criteria for biofuels and bioliquids

1 Where biofuels and bioliquids are to be taken into account for the purposes referred to in points (a), (b) and (c) of Article 17(1), Member States shall require economic operators to show that the sustainability criteria set out in Article 17(2) to (5) have been fulfilled. For that purpose they shall require economic operators to use a mass balance system which:

- a allows consignments of raw material or biofuel with differing sustainability characteristics to be mixed;
- b requires information about the sustainability characteristics and sizes of the consignments referred to in point (a) to remain assigned to the mixture; and
- c provides for the sum of all consignments withdrawn from the mixture to be described as having the same sustainability characteristics, in the same quantities, as the sum of all consignments added to the mixture.

2 The Commission shall report to the European Parliament and the Council in 2010 and 2012 on the operation of the mass balance verification method described in paragraph 1 and on the potential for allowing for other verification methods in relation to some or all types of raw material, biofuel or bioliquids. In its assessment, the Commission shall consider those verification methods in which information about sustainability characteristics need not remain physically assigned to particular consignments or mixtures. The assessment shall take into account the need to maintain the integrity and effectiveness of the verification system while avoiding the imposition of an unreasonable burden on industry. The report shall be accompanied, where appropriate, by proposals to the European Parliament and the Council concerning the use of other verification methods.

3 Member States shall take measures to ensure that economic operators submit reliable information and make available to the Member State, on request, the data that were used to develop the information. Member States shall require economic operators to arrange for an adequate standard of independent auditing of the information submitted, and to provide evidence that this has been done. The auditing shall verify that the systems used by economic operators are accurate, reliable and protected against fraud. It shall evaluate the frequency and methodology of sampling and the robustness of the data.

The information referred to in the first subparagraph shall include in particular information on compliance with the sustainability criteria set out in Article 17(2) to (5), appropriate and relevant information on measures taken for soil, water and air protection, the restoration of degraded land, the avoidance of excessive water consumption in areas where water is scarce and appropriate and relevant information concerning measures taken in order to take into account the issues referred to in the second subparagraph of Article 17(7).

[<sup>F1</sup>The Commission shall adopt implementing acts in accordance with the examination procedure referred to in Article 25(3), to establish the list of appropriate and relevant information referred to in the first two subparagraphs of this paragraph. The Commission shall ensure, in particular, that the provision of that information does not

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represent an excessive administrative burden for operators in general or for smallholder farmers, producer organisations and cooperatives in particular.]

The obligations laid down in this paragraph shall apply whether the biofuels or bioliquids are produced within the Community or imported.

Member States shall submit to the Commission, in aggregated form, the information referred to in the first subparagraph of this paragraph. The Commission shall publish that information on the transparency platform referred to in Article 24 in summary form preserving the confidentiality of commercially sensitive information.

4 The Community shall endeavour to conclude bilateral or multilateral agreements with third countries containing provisions on sustainability criteria that correspond to those of this Directive. Where the Community has concluded agreements containing provisions relating to matters covered by the sustainability criteria set out in Article 17(2) to (5), the Commission may decide that those agreements demonstrate that biofuels and bioliquids produced from raw materials cultivated in those countries comply with the sustainability criteria in question. When those agreements are concluded, due consideration shall be given to measures taken for the conservation of areas that provide, in critical situations, basic ecosystem services (such as watershed protection and erosion control), for soil, water and air protection, indirect land-use changes, the restoration of degraded land, the avoidance of excessive water consumption in areas where water is scarce and to the issues referred to in the second subparagraph of Article 17(7).

[<sup>F1</sup>The Commission may decide that voluntary national or international schemes setting standards for the production of biomass products contain accurate data for the purposes of Article 17(2), and/or demonstrate that consignments of biofuel or bioliquid comply with the sustainability criteria set out in Article 17(3), (4) and (5), and/or that no materials have been intentionally modified or discarded so that the consignment or part thereof would fall under Annex IX. The Commission may decide that those schemes contain accurate data for the purposes of information on measures taken for the conservation of areas that provide, in critical situations, basic ecosystem services (such as watershed protection and erosion control), for soil, water and air protection, the restoration of degraded land, the avoidance of excessive water consumption in areas where water is scarce and on the issues referred to in the second subparagraph of Article 17(7). The Commission may also recognise areas for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by intergovernmental organisations or the International Union for the Conservation of Nature for the purposes of Article 17(3)(b)(ii).]

The Commission may decide that voluntary national or international schemes to measure greenhouse gas emission saving contain accurate data for the purposes of Article 17(2).

The Commission may decide that land that falls within the scope of a national or regional recovery programme aimed at improving severely degraded or heavily contaminated land fulfils the criteria referred to in point 9 of part C of Annex V.

5 The Commission shall adopt decisions under paragraph 4 only if the agreement or scheme in question meets adequate standards of reliability, transparency and independent auditing. In the case of schemes to measure greenhouse gas emission saving, such schemes shall also comply with the methodological requirements in Annex V. Lists of areas of high biodiversity value as referred to in Article 17(3)(b)(ii) shall meet adequate standards of objectivity and coherence with internationally recognised standards and provide for appropriate appeal procedures.



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[<sup>F2</sup>The voluntary schemes referred to in paragraph 4 ('the voluntary schemes') shall regularly, and at least once per year, publish a list of their certification bodies used for independent auditing, indicating for each certification body by which entity or national public authority it was recognised and which entity or national public authority is monitoring it.

In order in particular to prevent fraud, the Commission may, on the basis of a risk analysis or the reports referred to in the second subparagraph of paragraph 6 of this Article, specify the standards of independent auditing and require all voluntary schemes to apply those standards. This shall be done by means of implementing acts adopted in accordance with the examination procedure referred to in Article 25(3). Such acts shall set a time frame by which voluntary schemes need to implement the standards. The Commission may repeal decisions recognising voluntary schemes in the event that those schemes fail to implement such standards in the time frame provided for.]

[<sup>F16</sup> Decisions under paragraph 4 of this Article shall be adopted in accordance with the examination procedure referred to in Article 25(3). Such decisions shall be valid for a period of no more than five years.

The Commission shall require that each voluntary scheme on which a decision has been adopted under paragraph 4 submit by 6 October 2016 and annually thereafter by 30 April, a report to the Commission covering each of the points set out in the third subparagraph of this paragraph. Generally, the report shall cover the preceding calendar year. The first report shall cover at least six months from 9 September 2015. The requirement to submit a report shall apply only to voluntary schemes that have operated for at least 12 months.

By 6 April 2017, and thereafter within its reports in accordance with Article 23(3), the Commission shall submit a report to the European Parliament and to the Council analysing the reports referred to in the second subparagraph of this paragraph, reviewing the operation of the agreements referred to in paragraph 4 or voluntary schemes in respect of which a decision has been adopted in accordance with this Article, and identifying best practices. The report shall be based on the best information available, including following consultations with stakeholders, and on practical experience in the application of the agreements or schemes concerned. The report shall analyse the following:

in general:

- (a) the independence, modality and frequency of audits, both in relation to what is stated on those aspects in the scheme documentation, at the time the scheme concerned was approved by the Commission, and in relation to industry best practice;
- (b) the availability of, and experience and transparency in the application of, methods for identifying and dealing with non-compliance, with particular regard to dealing with situations or allegations of serious wrongdoing on the part of members of the scheme;
- (c) transparency, particularly in relation to the accessibility of the scheme, the availability of translations in the applicable languages of the countries and regions from which raw materials originate, the accessibility of a list of certified operators and relevant certificates, and the accessibility of auditor reports;

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- (d) stakeholder involvement, particularly as regards the consultation of indigenous and local communities prior to decision making during the drafting and reviewing of the scheme as well as during audits and the response to their contributions;
- (e) the overall robustness of the scheme, particularly in light of rules on the accreditation, qualification and independence of auditors and relevant scheme bodies;
- (f) market updates of the scheme, the amount of feedstocks and biofuels certified, by country of origin and type, the number of participants;
- (g) the ease and effectiveness of implementing a system that tracks the proofs of conformity with the sustainability criteria that the scheme gives to its member(s), such a system intended to serve as a means of preventing fraudulent activity with a view, in particular, to the detection, treatment and follow-up of suspected fraud and other irregularities and where appropriate, number of cases of fraud or irregularities detected;

and in particular:

- (h) options for entities to be authorised to recognise and monitor certification bodies;
- (i) criteria for the recognition or accreditation of certification bodies;
- (j) rules on how the monitoring of the certification bodies is to be conducted;
- (k) ways to facilitate or improve the promotion of best practice.

The Commission shall make the reports drawn up by the voluntary schemes available, in an aggregated form or in full if appropriate, on the transparency platform referred to in Article 24.

A Member State may notify its national scheme to the Commission. The Commission shall give priority to the assessment of such a scheme. A decision on the compliance of such a notified national scheme with the conditions set out in this Directive shall be adopted in accordance with the examination procedure referred to in Article 25(3), in order to facilitate mutual bilateral and multilateral recognition of schemes for verification of compliance with the sustainability criteria for biofuels and bioliquids. Where the decision is positive, schemes established in accordance with this Article shall not refuse mutual recognition with that Member State's scheme, as regards the verification of compliance with the sustainability criteria set out in Article 17(2) to (5).]

7 When an economic operator provides proof or data obtained in accordance with an agreement or scheme that has been the subject of a decision pursuant to paragraph 4, to the extent covered by that decision, a Member State shall not require the supplier to provide further evidence of compliance with the sustainability criteria set out in Article 17(2) to (5) nor information on measures referred to in the second subparagraph of paragraph 3 of this Article.

[<sup>F18</sup> At the request of a Member State or on its own initiative, the Commission shall examine the application of Article 17 in relation to a source of biofuel and, within six months of receipt of a request decide, in accordance with the examination procedure referred to in Article 25(3), whether the Member State concerned may take biofuel from that source into account for the purposes of Article 17(1).]

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9 By 31 December 2012, the Commission shall report to the European Parliament and to the Council on:

- a the effectiveness of the system in place for the provision of information on sustainability criteria; and
- b whether it is feasible and appropriate to introduce mandatory requirements in relation to air, soil or water protection, taking into account the latest scientific evidence and the Community's international obligations.

The Commission shall, if appropriate, propose corrective action.

#### **Textual Amendments**

- F1** Substituted by Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 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 (Text with EEA relevance).
- F2** Inserted by Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 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 (Text with EEA relevance).

### *Article 19*

#### **Calculation of the greenhouse gas impact of biofuels and bioliquids**

1 For the purposes of Article 17(2), the greenhouse gas emission saving from the use of biofuel and bioliquids shall be calculated as follows:

- a where a default value for greenhouse gas emission saving for the production pathway is laid down in part A or B of Annex V and where the  $e_l$  value for those biofuels or bioliquids calculated in accordance with point 7 of part C of Annex V is equal to or less than zero, by using that default value;
- b by using an actual value calculated in accordance with the methodology laid down in part C of Annex V; or
- c by using a value calculated as the sum of the factors of the formula referred to in point 1 of part C of Annex V, where disaggregated default values in part D or E of Annex V may be used for some factors, and actual values, calculated in accordance with the methodology laid down in part C of Annex V, for all other factors.

2 By 31 March 2010, Member States shall submit to the Commission a report including a list of those areas on their territory classified as level 2 in the nomenclature of territorial units for statistics (NUTS) or as a more disaggregated NUTS level in accordance with Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS)<sup>(7)</sup> where the typical greenhouse gas emissions from cultivation of agricultural raw materials can be expected to be lower than or equal to the emissions reported under the heading 'Disaggregated default values for cultivation' in part D of Annex V to this Directive, accompanied by a description of the method and data used to establish that list. That method shall take into account soil characteristics, climate and expected raw material yields.

<sup>[F13]</sup> The typical greenhouse gas emissions from cultivation of agricultural raw materials included in the reports referred to in paragraph 2 in the case of Member States, and, in the case

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of territories outside the Union, in reports equivalent to those referred to in paragraph 2 and drawn up by competent bodies, may be reported to the Commission.

4 The Commission may decide, by means of an implementing act adopted in accordance with the examination procedure referred to in Article 25(3), that the reports referred to in paragraph 3 of this Article contain accurate data for the purposes of measuring the greenhouse gas emissions associated with the cultivation of biofuel and bioliquid feedstocks typically produced in those areas for the purposes of Article 17(2).

5 By 31 December 2012 at the latest and every two years thereafter, the Commission shall draw up and publish a report on the estimated typical and default values in parts B and E of Annex V, paying special attention to greenhouse gas emissions from transport and processing.

In the event that the reports referred to in the first subparagraph indicate that the estimated typical and default values in parts B and E of Annex V might need to be adjusted on the basis of the latest scientific evidence, the Commission shall, as appropriate, submit a legislative proposal to the European Parliament and to the Council.]

<sup>F36</sup> .....

[<sup>F17</sup> The Commission shall keep Annex V under review, with a view, where justified, to the addition of values for further biofuel production pathways for the same or for other raw materials. That review shall also consider the modification of the methodology laid down in part C of Annex V, particularly with regard to:

- the method of accounting for wastes and residues;
- the method of accounting for co-products;
- the method of accounting for cogeneration; and
- the status given to agricultural crop residues as co-products.

The default values for waste vegetable or animal oil biodiesel shall be reviewed as soon as possible. In the event that the Commission's review concludes that additions to Annex V should be made, the Commission shall be empowered to adopt delegated acts pursuant to Article 25a to add, but not to remove or amend, estimated typical and default values in parts A, B, D and E of Annex V for biofuel and bioliquid pathways for which specific values are not yet included in that Annex.]

Any adaptation of or addition to the list of default values in Annex V shall comply with the following:

- (a) where the contribution of a factor to overall emissions is small, or where there is limited variation, or where the cost or difficulty of establishing actual values is high, default values must be typical of normal production processes;
- (b) in all other cases default values must be conservative compared to normal production processes.

[<sup>F18</sup> Where necessary in order to ensure the uniform application of point 9 of Part C of Annex V, the Commission may adopt implementing acts setting out detailed technical specifications and definitions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25(3).]

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#### Textual Amendments

- F1** Substituted by Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 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 (Text with EEA relevance).
- F3** Deleted by Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 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 (Text with EEA relevance).

### Article 20

#### Implementing measures

The implementing measures referred to in the second subparagraph of Article 17(3), the third subparagraph of Article 18(3), Article 18(6), Article 18(8), Article 19(5), the first subparagraph of Article 19(7), and Article 19(8) shall also take full account of the purposes of Article 7a of Directive 98/70/EC.

### <sup>F3</sup>Article 21

#### [<sup>F3</sup>Specific provisions related to energy from renewable sources in transport]

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#### Textual Amendments

- F3** Deleted by Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 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 (Text with EEA relevance).

### Article 22

#### Reporting by the Member States

1 Each Member State shall submit a report to the Commission on progress in the promotion and use of energy from renewable sources by 31 December 2011, and every two years thereafter. The sixth report, to be submitted by 31 December 2021, shall be the last report required.

The report shall detail, in particular:

- a the sectoral (electricity, heating and cooling, and transport) and overall shares of energy from renewable sources in the preceding two calendar years and the measures taken or planned at national level to promote the growth of energy from renewable sources taking into account the indicative trajectory in part B of Annex I, in accordance with Article 5;
- b the introduction and functioning of support schemes and other measures to promote energy from renewable sources, and any developments in the measures used with

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- respect to those set out in the Member State's national renewable energy action plan, and information on how supported electricity is allocated to final customers for purposes of Article 3(6) of Directive 2003/54/EC;
- c how, where applicable, the Member State has structured its support schemes to take into account renewable energy applications that give additional benefits in relation to other, comparable applications, but may also have higher costs, including biofuels made from wastes, residues, non-food cellulosic material, and ligno-cellulosic material;
  - d the functioning of the system of guarantees of origin for electricity and heating and cooling from renewable energy sources and the measures taken to ensure the reliability and protection against fraud of the system;
  - e progress made in evaluating and improving administrative procedures to remove regulatory and non-regulatory barriers to the development of energy from renewable sources;
  - f measures taken to ensure the transmission and distribution of electricity produced from renewable energy sources, and to improve the framework or rules for bearing and sharing of costs referred to in Article 16(3);
  - g developments in the availability and use of biomass resources for energy purposes;
  - h changes in commodity prices and land use within the Member State associated with its increased use of biomass and other forms of energy from renewable sources;
  - [<sup>F1</sup>i the development and share of biofuels made from feedstocks listed in Annex IX including a resource assessment focusing on the sustainability aspects relating to the effect of the replacement of food and feed products for biofuel production, taking due account of the principles of the waste hierarchy established in Directive 2008/98/EC and the biomass cascading principle, taking into consideration the regional and local economic and technological circumstances, the maintenance of the necessary carbon stock in the soil and the quality of the soil and the ecosystems;]
  - j the estimated impact of the production of biofuels and bioliquids on biodiversity, water resources, water quality and soil quality within the Member State;
  - k the estimated net greenhouse gas emission saving due to the use of energy from renewable sources;
  - l the estimated excess production of energy from renewable sources compared to the indicative trajectory which could be transferred to other Member States, as well as the estimated potential for joint projects, until 2020;
  - m the estimated demand for energy from renewable sources to be satisfied by means other than domestic production until 2020; [<sup>F3</sup> and]
  - n information on how the share of biodegradable waste in waste used for producing energy has been estimated, and what steps have been taken to improve and verify such estimates [<sup>F1</sup>; and]
  - [<sup>F2</sup>o the amounts of biofuels and bioliquids in energy units corresponding to each category of feedstock group listed in part A of Annex VIII taken into account by that Member State for the purpose of complying with the targets set out in Article 3(1) and (2), and in the first subparagraph of Article 3(4).]
- 2 In estimating net greenhouse gas emission saving from the use of biofuels, the Member State may, for the purpose of the reports referred to in paragraph 1, use the typical values given in part A and part B of Annex V.
- 3 In its first report, the Member State shall outline whether it intends to:
- a establish a single administrative body responsible for processing authorisation, certification and licensing applications for renewable energy installations and providing assistance to applicants;

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- b provide for automatic approval of planning and permit applications for renewable energy installations where the authorising body has not responded within the set time limits; or
  - c indicate geographical locations suitable for exploitation of energy from renewable sources in land-use planning and for the establishment of district heating and cooling.
- 4 In each report the Member State may correct the data of the previous reports.

#### **Textual Amendments**

- F1** Substituted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).
- F2** Inserted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).
- F3** Deleted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).

### *Article 23*

#### **Monitoring and reporting by the Commission**

1 The Commission shall monitor the origin of biofuels and bioliquids consumed in the Community and the impact of their production, including impact as a result of displacement, on land use in the Community and the main third countries of supply. Such monitoring shall be based on Member States' reports, submitted pursuant to Article 22(1), and those of relevant third countries, intergovernmental organisations, scientific studies and any other relevant pieces of information. The Commission shall also monitor the commodity price changes associated with the use of biomass for energy and any associated positive and negative effects on food security. <sup>F3</sup>The Commission shall monitor all installations to which Article 19(6) applies.]

2 The Commission shall maintain a dialogue and exchange information with third countries and biofuel producers, consumer organisations and civil society concerning the general implementation of the measures in this Directive relating to biofuels and bioliquids. It shall, within that framework, pay particular attention to the impact biofuel production may have on food prices.

3 On the basis of the reports submitted by Member States pursuant to Article 22(1) and the monitoring and analysis referred to in paragraph 1 of this Article, the Commission shall report every two years to the European Parliament and the Council. The first report shall be submitted in 2012.

<sup>F14</sup> In reporting on greenhouse gas emission savings from the use of biofuels and bioliquids, the Commission shall use the amounts reported by Member States in accordance with point (o) of Article 22(1), including the provisional mean values of the estimated indirect land-use change emissions and the associated range derived from the sensitivity analysis as set out in Annex VIII. The Commission shall make data on the provisional mean values of the estimated indirect land-use change emissions and the associated range derived from the

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sensitivity analysis publicly available. In addition, the Commission shall evaluate whether and how the estimate for direct emission savings would change if co-products were accounted for using the substitution approach.]

- 5 In its reports, the Commission shall, in particular, analyse:
- a the relative environmental benefits and costs of different biofuels, the effects of the Community's import policies thereon, the security of supply implications and the ways of achieving a balanced approach between domestic production and imports;
  - b the impact of increased demand for biofuel on sustainability in the Community and in third countries, considering economic and environmental impacts, including impacts on biodiversity;
  - c the scope for identifying, in a scientifically objective manner, geographical areas of high biodiversity value that are not covered in Article 17(3);
  - d the impact of increased demand for biomass on biomass using sectors;
  - [<sup>F1</sup>e the availability and sustainability of biofuels made from feedstocks listed in Annex IX, including an assessment of the effect of the replacement of food and feed products for biofuel production, taking due account of the principles of the waste hierarchy established in Directive 2008/98/EC and the biomass cascading principle, taking into consideration the regional and local economic and technological circumstances, the maintenance of the necessary carbon stock in the soil and the quality of soil and ecosystems;
  - f information on, and analysis of, the available scientific research results regarding indirect land-use change in relation to all production pathways, accompanied by an assessment of whether the range of uncertainty identified in the analysis underlying the estimations of indirect land-use change emissions can be narrowed and the possible impact of Union policies, such as environment, climate and agricultural policies, can be factored in; and
  - g technological developments and availability of data on the use, economic and environmental impacts of biofuels and bioliquids produced in the Union from dedicated non-food crops grown primarily for energy purposes.]

The Commission shall, if appropriate, propose corrective action.

6 On the basis of the reports submitted by Member States pursuant to Article 22(3), the Commission shall analyse the effectiveness of measures taken by Member States on establishing a single administrative body responsible for processing authorisation, certification and licensing applications and providing assistance to applicants.

7 In order to improve financing and coordination with a view to the achievement of the 20 % target referred to in Article 3(1), the Commission shall, by 31 December 2010, present an analysis and action plan on energy from renewable sources with a view, in particular, to:

- a the better use of structural funds and framework programmes;
- b the better and increased use of funds from the European Investment Bank and other public finance institutions;
- c better access to risk capital notably by analysing the feasibility of a risk sharing facility for investments in energy from renewable sources in the Community similar to the Global Energy Efficiency and Renewable Energy Fund initiative which is aimed at third countries;
- d the better coordination of Community and national funding and other forms of support; and
- e the better coordination in support of renewable energy initiatives whose success depends on action by actors in several Member States.



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8 By 31 December 2014, the Commission shall present a report, addressing, in particular, the following elements:

- (a) a review of the minimum greenhouse gas emission saving thresholds to apply from the dates referred to in the second subparagraph of Article 17(2), on the basis of an impact assessment taking into account, in particular, technological developments, available technologies and the availability of first and second-generation bio-fuels with a high level of greenhouse gas emission saving;
- (b) [F<sup>1</sup> with respect to the targets referred to in Article 3(4), a review of:
  - (i) the cost-efficiency of the measures to be implemented to achieve the targets;
  - (ii) an assessment of the feasibility of reaching the targets whilst ensuring the sustainability of biofuels production in the Union and in third countries, and considering economic, environmental and social impacts, including indirect effects and impacts on biodiversity, as well as the commercial availability of second-generation biofuels;
  - (iii) the impact of the implementation of the targets on the availability of foodstuffs at affordable prices;
  - (iv) the commercial availability of electric, hybrid and hydrogen-powered vehicles, as well as the methodology chosen to calculate the share of energy from renewable sources consumed in the transport sector;
  - (v) the evaluation of specific market conditions, considering, in particular, markets in which transport fuels represent more than half of the final energy consumption, and markets which are fully dependent on imported biofuels;]
- (c) an evaluation of the implementation of this Directive, in particular with regard to cooperation mechanisms, in order to ensure that, together with the possibility for the Member States to continue to use national support schemes referred to in Article 3(3), those mechanisms enable Member States to achieve the national targets defined in Annex I on the best cost-benefit basis, of technological developments, and the conclusions to be drawn to achieve the target of 20 % of energy from renewable sources at Community level.

On the basis of that report, the Commission shall submit, if appropriate, proposals to the European Parliament and the Council, addressing the above elements and in particular:

- for the element contained in point (a), a modification of the minimum greenhouse gas emission saving referred to in that point, and
- for the element contained in point (c), appropriate adjustments of the cooperation measures provided for in this Directive in order to improve their effectiveness for achieving the target of 20 %. Such proposals shall neither affect the 20 % target nor Member States' control over national support schemes and cooperation measures.

9 In 2018, the Commission shall present a Renewable Energy Roadmap for the post-2020 period.

That roadmap shall, if appropriate, be accompanied by proposals to the European Parliament and the Council for the period after 2020. The roadmap shall take into account the experience of the implementation of this Directive and technological developments in energy from renewable sources.

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10 In 2021, the Commission shall present a report reviewing the application of this Directive. That report shall, in particular, address the role of the following elements in having enabled Member States to achieve the national targets defined in Annex I on the best cost-benefit basis:

- a the process of preparing forecasts and national renewable energy action plans;
- b the effectiveness of the cooperation mechanisms;
- c technological developments in energy from renewable sources, including the development of the use of biofuels in commercial aviation;
- d the effectiveness of the national support schemes; and
- e the conclusions of the Commission reports referred to in paragraphs 8 and 9.

#### Textual Amendments

- F1** Substituted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).
- F3** Deleted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).

### Article 24

#### Transparency platform

1 The Commission shall establish an online public transparency platform. That platform shall serve to increase transparency, and facilitate and promote cooperation between Member States, in particular concerning statistical transfers referred to in Article 6 and joint projects referred to in Articles 7 and 9. In addition, the platform may be used to make public relevant information which the Commission or a Member State deems to be of key importance to this Directive and to the achievement of its objectives.

2 The Commission shall make public on the transparency platform the following information, where appropriate in aggregated form, preserving the confidentiality of commercially sensitive information:

- a Member States' national renewable energy action plans;
- b Member States' forecast documents referred to in Article 4(3), complemented as soon as possible with the Commission's summary of excess production and estimated import demand;
- c Member States' offers to cooperate on statistical transfers or joint projects, upon request of the Member State concerned;
- d the information referred to in Article 6(2) on the statistical transfers between Member States;
- e the information referred to in Article 7(2) and (3) and Article 9(4) and (5) on joint projects;
- f Member States' national reports referred to in Article 22;
- g the Commission reports referred to in Article 23(3).

However, upon request of the Member State that submitted the information, the Commission shall not make public Member States' forecast documents referred to in

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Article 4(3), or the information in Member States' national reports referred to in Article 22(1)(l) and (m).

### *[<sup>F1</sup>Article 25*

#### **Committee procedure**

1 Except in the cases referred to in paragraph 2, the Commission shall be assisted by the Committee on Renewable Energy Sources. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(8)</sup>.

2 For matters relating to the sustainability of biofuels and bioliquids, the Commission shall be assisted by the Committee on the Sustainability of Biofuels and Bioliquids. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

3 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the Committees deliver no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.]

#### **Textual Amendments**

- F1** Substituted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).

### *[<sup>F2</sup>Article 25a*

#### **Exercise of the delegation**

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Articles 3(5), 5(5) and 19(7) shall be conferred on the Commission for a period of five years from 5 October 2015.

3 The delegation of power referred to in Articles 3(5), 5(5) and 19(7) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5 A delegated act adopted pursuant to Articles 3(5), 5(5) and 19(7) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed

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the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.]

#### **Textual Amendments**

- F2** Inserted by [Directive \(EU\) 2015/1513 of the European Parliament and of the Council of 9 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 \(Text with EEA relevance\)](#).

#### *Article 26*

#### **Amendments and repeal**

- 1 In Directive 2001/77/EC, Article 2, Article 3(2), and Articles 4 to 8 shall be deleted with effect from 1 April 2010.
- 2 In Directive 2003/30/EC, Article 2, Article 3(2), (3) and (5), and Articles 5 and 6 shall be deleted with effect from 1 April 2010.
- 3 Directives 2001/77/EC and 2003/30/EC shall be repealed with effect from 1 January 2012.

#### *Article 27*

#### **Transposition**

- 1 Without prejudice to Article 4(1), (2) and (3), Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 5 December 2010.

When Member States adopt measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

- 2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

#### *Article 28*

#### **Entry into force**

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

#### *Article 29*

#### **Addressees**

This Directive is addressed to the Member States.

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- (1) [<sup>F2</sup>Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).]
- (2) [<sup>F2</sup>Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 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 (OJ L 239, 15.9.2015, p. 1).]
- (3) OJ L 304, 14.11.2008, p. 1.
- (4) OJ L 301, 20.11.2007, p. 14.
- (5) OJ L 176, 15.7.2003, p. 57.
- (6) OJ L 30, 31.1.2009, p. 16.
- (7) OJ L 154, 21.6.2003, p. 1.
- (8) [<sup>F1</sup>Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).]

#### **Textual Amendments**

- F1** Substituted by Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 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 (Text with EEA relevance).
- F2** Inserted by Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 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 (Text with EEA relevance).