
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 225

The Renewables Obligation (Scotland) Amendment Order 2011

Greenhouse gas emission criteria and land criteria

16. Before Schedule 1 (calculation of the SROC obligation) insert—

“SCHEDULE A1

Articles 2(1) and 22A

GREENHOUSE GAS EMISSION CRITERIA FOR BIOLIQUID

Interpretation

1. In this Schedule—

“actual value method” means the calculation method for greenhouse gas emissions from the production and use of bioliquids provided for in paragraphs 1, 2 and 5 to 18 of Part C of Annex V to the Renewables Directive;

“default percentage” means—

- (a) in relation to bioliquid described in the first column of Part A or Part B of Annex V to the Renewables Directive—
 - (i) the percentage (if any) which corresponds to that description in the third column of Part A or Part B of that Annex; or
 - (ii) where a percentage corresponding to that description is not set out in the third column of Part A or Part B of that Annex, the percentage which complies with the provision corresponding to that description in the second column of Part A or Part B of that Annex;

(b) in all other cases, 0%;

“disaggregated default value” means, in relation to a bioliquid described in the first column of a table in Part D or Part E of Annex V to the Renewables Directive, the value which corresponds to that description in the third column of that table in Part D or Part E of Annex V to the Renewables Directive;

“disaggregated default values for cultivation” means the figures in the third column of the table entitled “Disaggregated default values for cultivation: ‘ e_{ec} ’ as defined in part C of this Annex” in Part D of Annex V to the Renewables Directive;

“greenhouse gas emissions from the use of fossil fuel” means the value given in paragraph 19 of Part C of Annex V to the Renewables Directive as the fossil fuel comparator for bioliquids used for electricity production;

“mixed value method” means the calculation method for greenhouse gas emissions from the production and use of bioliquids provided for in paragraphs 1, 2 and 5 to 18 of Part C of Annex V to the Renewables Directive, but using one or more disaggregated default values for the bioliquid when carrying out the calculation set out in paragraph 1 of Part C of that Annex; and

“relevant percentage” means—

- (a) in relation to bioliquid used to generate electricity before 1st January 2017, 35%;
- (b) in relation to bioliquid used to generate electricity during 2017, 50%;
- (c) in relation to bioliquid produced by an installation that started producing bioliquid before 1st January 2017 and used to generate electricity on or after 1st January 2018, 50%;
- (d) in all other cases, 60%.

The greenhouse gas emission criteria

2. Where bioliquid is used to generate electricity, it meets the greenhouse gas emission criteria if—

- (a) the greenhouse gas emissions from its use are lower, by at least the relevant percentage, than the greenhouse gas emissions from the use of fossil fuel; or
- (b) the bioliquid was—
 - (i) produced by an installation that was producing bioliquid on 23rd January 2008; and
 - (ii) used to generate electricity before 1st April 2013.

Calculating the percentage difference

3. For the purposes of paragraph 2, the percentage difference between the greenhouse gas emissions from the use of the bioliquid and the greenhouse gas emissions from the use of fossil fuel is—

- (a) to be calculated using one of the following methods—
 - (i) the actual value method; or
 - (ii) the mixed value method; or
- (b) the default percentage.

4. The mixed value method must not be used for the purposes of paragraph 2 unless the bioliquid is described in the first column of a table in Part D or Part E of Annex V to the Renewables Directive.

5. Where the mixed value method is used for the purposes of paragraph 2, the disaggregated default values for cultivation must not be used in carrying out the calculation in paragraph 1 of Part C of Annex V to the Renewables Directive unless the biomaterial from which the bioliquid is made—

- (a) was cultivated outside the EU;
- (b) was cultivated in an area included in a list submitted under Article 19(2) of the Renewables Directive;
- (c) is waste; or
- (d) is residue (other than residue from agriculture, aquaculture or fisheries).

6. The default percentage must not be used for the purposes of paragraph 2 unless—

- (a) in relation to the bioliquid, the result of the calculation in paragraph 7 of Part C of Annex V to the Renewables Directive is equal to, or less than, zero; and
- (b) in the case of a bioliquid described in the first column of Part A of Annex V to the Renewables Directive, the biomaterial from which the bioliquid is made—

- (i) was cultivated outside the EU;
- (ii) was cultivated in an area included in a list submitted under Article 19(2) of the Renewables Directive;
- (iii) is waste; or
- (iv) is residue (other than residue from agriculture, aquaculture or fisheries).

SCHEDULE A2

Articles 2(1), 22A and 54

LAND CRITERIA

Interpretation

1. In this Schedule—

“continuously forested area” means land of an area of more than one hectare which includes—

- (a) trees more than five metres tall providing a tree canopy cover of more than 30%; or
- (b) trees collectively having the capacity to provide a tree canopy cover of more than 30% which—
 - (i) are more than five metres tall; or
 - (ii) have the capacity to grow to a height of more than five metres;

“designated for nature protection purposes” means designated pursuant to the law of the United Kingdom or of any part of the United Kingdom or pursuant to the law of any country or territory outside the United Kingdom, for the purpose of protecting the natural environment;

“lightly forested area” means land of an area of more than one hectare which includes—

- (a) trees more than five metres tall providing a tree canopy cover of between 10% and 30%, or
- (b) trees collectively having the capacity to provide a tree canopy cover of between 10% and 30% which—
 - (i) are more than five metres tall; or
 - (ii) have the capacity to grow to a height of more than five metres;

“primary forest” means woodland of native species, where there is no clearly visible indication of human activity and ecological processes are not significantly disturbed; and

“wetland area” means land that is covered with or saturated by water—

- (a) permanently; or
- (b) for a significant part of the year.

2. For the purposes of this Schedule—

- (a) biomaterial was obtained from a former continuously forested area if the land—
 - (i) was a continuously forested area at any time during January 2008; and
 - (ii) was not a continuously forested area when the biomaterial was obtained from it;
- (b) biomaterial was obtained from a former lightly forested area if the land—
 - (i) was a lightly forested area at any time during January 2008; and

- (ii) was not a lightly forested area or a continuously forested area when the biomaterial was obtained from it; and
- (c) biomaterial was obtained from a former wetland area if the land—
 - (i) was a wetland area at any time during January 2008; and
 - (ii) was not a wetland area when the biomaterial was obtained from it.

Land criteria

- 3.—(1) Fuel meets the land criteria if the biomaterial from which it was made—
- (a) was waste;
 - (b) was residue (other than residue from agriculture, aquaculture, fisheries or forestry); or
 - (c) was obtained from a permitted source.
- (2) Biomaterial is obtained from a permitted source unless it is obtained from—
- (a) land which at any time during or after January 2008 was primary forest;
 - (b) except where sub-paragraph (3) applies to the biomaterial, land which at any time during or after January 2008 was designated for nature protection purposes;
 - (c) except where sub-paragraph (4) applies to the biomaterial, land which at any time during January 2008 was peatland;
 - (d) a former continuously forested area;
 - (e) except where sub-paragraph (5) or (7) applies to the biomaterial, a former lightly forested area; or
 - (f) a former wetland area.
- (3) This sub-paragraph applies to biomaterial obtained from land which at any time during or after January 2008 was designated for nature protection purposes if the production of that biomaterial did not interfere with the nature protection purposes for which the land was designated.
- (4) This sub-paragraph applies to biomaterial obtained from land which at any time during January 2008 was peatland if the cultivation and harvesting of that biomaterial did not involve the drainage of previously undrained soil.
- (5) This sub-paragraph applies to biomaterial obtained from a former lightly forested area where—
- (a) the fuel made from the biomaterial was not a bioliquid; and
 - (b) the greenhouse gas emissions from the use of the fuel to generate one mega joule of electricity did not exceed 79.2 grams.
- (6) For the purposes of sub-paragraph (5)(b), the greenhouse gas emissions must be calculated using the method set out in Schedule 3A.
- (7) This sub-paragraph applies to biomaterial obtained from a former lightly forested area where—
- (a) the fuel made from the biomaterial was a bioliquid; and
 - (b) the greenhouse gas emissions from the use of the bioliquid to generate electricity were lower, by at least the relevant percentage, than the greenhouse gas emissions from the use of fossil fuel.
- (8) For the purposes of sub-paragraph (7)(b), the percentage difference between the greenhouse gas emissions from the use of the bioliquid and the greenhouse gas emissions from the use of fossil fuel must be calculated using the actual value method.

(9) In this paragraph, “actual value method”, “greenhouse gas emissions from the use of fossil fuel” and “relevant percentage” have the same meaning as in Schedule A1.”.