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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 384**

**The Renewables Obligation (Scotland) Amendment Order 2015**

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Renewables Obligation (Scotland) Amendment Order 2015 and comes into force on 1st December 2015.

(2) In this Order “the principal Order” means the Renewables Obligation (Scotland) Order 2009(1).

**Amendment of the principal Order**

2. The principal Order is amended in accordance with articles 3 to 15.

**Interpretation**

3. In article 2(1)—

(a) after the definition of “anaerobic digestion” insert—

““animal excreta” means excreta produced by animals and includes biomass wholly derived from excreta produced by animals;”;

(b) in the definition of “connected person”, for “section 839 of the Income and Corporation Taxes Act 1988” substitute “section 1122 of the Corporation Tax Act 2010(2)”;

(c) after the definition of “declared net capacity” insert—

““demonstration lease” means a lease granted by the Crown Estate, one of whose purposes is testing, demonstrating and approving the viability of a wind turbine;”;

(d) for the definition of “greenhouse gas emission criteria” substitute—

““greenhouse gas emission criteria” means—

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

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

(e) in the definition of “relevant material”, for “4(1)(a)” substitute “4(1A)(a)”;

(f) after the definition of “relevant material” insert—

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

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

(h) for the definition of “waste” substitute—

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(1) S.S.I. 2009/140, as amended by S.S.I. 2009/276, S.S.I. 2010/147, S.S.I. 2011/225, S.S.I. 2011/226, S.S.I. 2013/116, S.S.I. 2014/94 and S.S.I. 2015/188.

(2) 2010 c.4.

“waste” has the meaning given in Article 3(1) of [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste<sup>(3)</sup> but—

- (a) also includes anything derived from waste; and
- (b) does not include landfill gas or sewage gas.”

#### **Biomass and fuels which are to be treated as biomass**

4. In article 4—

- (a) in paragraph (1A)(a)<sup>(4)</sup>, for “or algae” substitute “, algae or bacteria”;
- (b) in paragraph (1B)(a)<sup>(5)</sup>, for “material” to the end substitute “relevant material”; and
- (c) in paragraph (7), for “plant” to the end substitute “relevant material”.

#### **Combustion units in relation to which a CFD or investment contract has been entered into**

5. In article 21B(7)(a)<sup>(6)</sup>, for “21st” substitute “31st”.

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

6. After article 22 (circumstances in which no SROCs are to be issued in respect of electricity generated from renewable sources) insert—

##### **“Circumstances in which no SROCs are to be issued in respect of electricity generated from solid or gaseous biomass**

**22ZA.**—(1) This article applies to biomass (other than animal excreta, bioliquid, landfill gas, sewage gas or waste).

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

- (a) the generating station has a total installed capacity of less than one megawatt; or
- (b) the biomass meets the greenhouse gas emission criteria and the land criteria.”

#### **Common agricultural policy requirements in the case of bioliquids**

7. For article 22B(b)(i) and (ii)<sup>(7)</sup> substitute—

- “(i) cultivated in a manner that breached a requirement or standard listed in the third column of the table in Annex 2 to Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy<sup>(8)</sup> (“the 2013 Regulation”) and corresponding to the entry in the first column of that table for “environment, climate change, good agricultural condition of land”;
- (ii) cultivated in a manner that breached statutory management requirement number 10 in Annex 2 to the 2013 Regulation; or
- (iii) obtained from land which does not meet the minimum requirements for good agricultural and environmental condition defined pursuant to Article 94 of the 2013 Regulation.”

(3) OJ L 312, 22.11.2008, p.3.

(4) Paragraph (1A) was inserted by [S.S.I. 2013/116](#).

(5) Paragraph (1B) was inserted by [S.S.I. 2013/116](#).

(6) Article 21B was inserted by [S.S.I. 2014/94](#).

(7) Article 22B was inserted by [S.S.I. 2011/225](#).

(8) OJ L 347, 20.12.2013, p.549.

**SROCs to be issued by Authority in respect of a generating station’s RO eligible renewable output**

**8.** In article 24—

- (a) in paragraph (2), for “paragraph” substitute “paragraphs (2A) and”;
- (b) after paragraph (2) insert—

“(2A) Where—

- (a) electricity was generated—
  - (i) by a generating station with a total installed capacity of at least one megawatt; and
  - (ii) using biomass (other than animal excreta, bioliquid, landfill gas, sewage gas or waste); and
- (b) the greenhouse gas emissions from the use of that biomass are above the relevant target,

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

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

**Offshore wind generating stations using test and demonstration wind turbines**

**9.** Omit article 30C(4)(b)(9).

**Offshore wind generating stations using floating wind turbines**

**10.** In article 30D(10)—

- (a) for paragraph (3)(b) substitute—

“(b) it confirms that—

- (i) to the best of the operator’s knowledge and belief the electricity generated was generated by a generating station using only floating wind turbines; and
- (ii) the lease in respect of which the generating station is entitled to operate at that particular area of seabed is a demonstration lease issued by the Crown Estate in relation to that site.”; and

- (b) at the end of paragraph (4) insert “and not by any other means”.

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

**11.** For article 54 substitute—

“54.—(1) This article applies to a generating station—

- (a) which generates electricity (wholly or partly) from biomass (other than municipal waste, landfill gas or sewage gas); and
- (b) which is not a microgenerator.

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(9) Article 30C was inserted by [S.S.I. 2014/94](#).

(10) Article 30D was inserted by [S.S.I. 2014/94](#).

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

- (a) the information specified in paragraph (3);
- (b) other than in the case of biomass which was gas formed by the anaerobic digestion of material which was—
  - (i) animal excreta; or
  - (ii) waste,
 the information specified in paragraph (4); and
- (c) other than in the case of biomass which—
  - (i) was used in a generating station with a total installed capacity of at least one megawatt; or
  - (ii) was animal excreta, bioliquid or waste,
 the information specified in paragraph (5).

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

- (a) the material from which the biomass was composed;
- (b) where the biomass was solid and can take different forms, the form of the biomass;
- (c) whether the biomass was animal excreta or waste;
- (d) where the biomass was plant matter or derived from plant matter, the country where the plant matter was grown; and
- (e) where the information specified in sub-paragraph (d) is not known or the biomass was not plant matter or derived from plant matter, the country from which the operator obtained the biomass.

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

- (a) where the biomass was solid, its mass (in tonnes);
- (b) where the biomass was liquid, its volume (in litres) when measured at 25 degrees Celsius and 0.1 megapascals;
- (c) where the biomass was gas, its volume (in cubic metres) when measured at 25 degrees Celsius and 0.1 megapascals;
- (d) where the biomass was an energy crop and was not a bioliquid—
  - (i) the type of energy crop in question; and
  - (ii) the use of the land on which the biomass was grown in the year before the land was first used to grow energy crops; and
- (e) where the biomass was, or was derived from, wood and was not waste or bioliquid—
  - (i) the name of the forest or other location where that wood was grown;
  - (ii) a description of the forestry management practices or land management practices used in the forest or other location where that wood was grown;
  - (iii) where any of the wood was likely to be a protected or threatened species, the name of that species and the proportion of the biomass that is likely to be composed of, or derived from, that species;

- (iv) the proportion of the biomass that was, or was derived from, a saw log, and the specification adopted by the operator in accordance with paragraph (6) for the purpose of determining the proportion of the biomass that was, or was derived from, a saw log; and
  - (v) the proportion of the biomass that was, or was derived from, hardwood and the proportion that was, or was derived from, softwood.
- (5) The information specified in this paragraph is information identifying, to the best of the operator's knowledge and belief—
  - (a) the greenhouse gas emissions from the use of the biomass to generate one mega joule of electricity;
  - (b) where the biomass does not meet the greenhouse gas emission criteria, the main reasons why biomass meeting the greenhouse gas emission criteria was not used;
  - (c) whether the biomass meets the land criteria;
  - (d) where the biomass does not meet the land criteria, the main reasons why biomass meeting the land criteria was not used; and
  - (e) where any of the information specified in sub-paragraphs (a) and (c) is not known—
    - (i) the main reasons why that information is not known; and
    - (ii) the main reasons why biomass for which that information is known was not used.
- (6) For the purposes of paragraph (4)(e)(iv), the operator of the generating station must adopt a specification which is identical to—
  - (a) a specification for determining whether wood is a saw log—
    - (i) used by the sawmill closest to where the wood was grown; or
    - (ii) issued by a body exercising functions of a public nature and issued for use by sawmills in the area in which the wood was grown; or
  - (b) the specification in the second column of Table 1 of Forestry Commission Field Book 9 (other than the parts of that specification relating to “log category” and “species” set out in the first and second rows of that table).
- (7) For the purposes of paragraph (5)(a), the operator of the generating station must calculate the greenhouse gas emissions from the use of the biomass in accordance with paragraphs 3(a), 4 and 5 of Schedule A1A (greenhouse gas emission criteria for solid and gaseous biomass).
- (8) Where, in relation to biomass used in a generating station to which this article applies, the operator of the station fails to provide the Authority with the information required by paragraph (2) by the relevant date, the Authority must, in relation to any SROCs to which the operator would otherwise be entitled, postpone the issue of those SROCs (up to the specified number) until such time as the information is provided.
- (9) For the purposes of paragraph (8), the specified number is the number of SROCs which the Authority has or estimates that it has or, but for this article, it would have issued in respect of the electricity generated by the biomass in relation to which the information required by paragraph (2) should have been provided.
- (10) In this article—

“Forestry Commission Field Book 9” means Forestry Commission Field Book 9, 2nd edition 1993, entitled “Classification and Presentation of Softwood Sawlogs”(11);

“protected or threatened species” means—

- (a) a species listed in Appendices I, II or III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora(12); or
- (b) a species which is at risk of extinction; and

“saw log” means wood which is suitable for processing at a sawmill.”.

### **Solid and gaseous biomass sustainability audit report**

12. In article 54B—

(a) in paragraph (2)—

- (i) in sub-paragraphs (a) and (b) omit “or wholly derived from waste”; and
- (ii) in sub-paragraph (b), for “54(3ZB)” substitute “54(5)”; and

(b) in paragraph (6)—

- (i) in sub-paragraphs (a) and (b) omit “or wholly derived from waste”; and
- (ii) in sub-paragraph (b) for “54(3ZB)” substitute “54(5)”.

### **Greenhouse gas emission criteria for solid and gaseous biomass**

13. After Schedule A1(13) insert the Schedule in Schedule 1 to this Order.

### **Land criteria**

14. For Schedule A2(14) substitute the Schedule in Schedule 2 to this Order.

### **Actual and default value methods for calculating emissions from the use of biomass**

15. Omit Schedules 3A and 3B.

### **Savings provision**

16. Subject to paragraph (2), the principal Order continues to have effect as it had effect before 1st December 2015 in relation to—

- (a) the issue and revocation of SROCs in respect of electricity generated before 1st December 2015, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to such issue or revocation;
- (b) any obligations or requirements imposed on any person in respect of the obligation period ending on 31st March 2016, and anything which falls to be done or determined in relation to any such obligation or requirement;
- (c) any obligations or requirements imposed on any person in respect of electricity generated before 1st December 2015, and anything which falls to be done or determined in relation to any such obligation or requirement; and

(11) ISBN 0 11 710322 5. Copies are available at <https://www.gov.uk/government/consultations/biomass-sustainability>. Hard copies are available from the Department of Energy and Climate Change.

(12) Available at <http://www.cites.org/eng/disc/text.php#texttop>.

(13) Schedule A1 was inserted by S.S.I. 2011/225.

(14) Schedule A2 was inserted by S.S.I. 2011/225.

- (d) any obligations and functions of the Authority in respect of the obligation period ending on 31st March 2016, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to that obligation period.

### **Transitional provisions**

**17.** In relation to biomass used before 1st April 2016, paragraph 2 of Schedule A1A of the principal Order (as inserted by article 13 of, and Schedule 1 to, this Order) has effect as if for subparagraph (b)(iii) there were substituted—

- “(iii) the average greenhouse gas emissions from the relevant biomass used by the station to generate electricity during the period from the day this Order comes into force to 31st March 2016 are equal to, or less than, the relevant target.”.

St Andrew’s House,  
Edinburgh  
10th November 2015

*FERGUS EWING*  
Authorised to sign by the Scottish Ministers