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DRAFT STATUTORY INSTRUMENTS

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**2021 No.**

**The Renewable Transport Fuel  
Obligations (Amendment) Order 2021**

**PART 2**

**Amendment of the Renewable Transport Fuel Obligations Order 2007**

**Insertion of Schedules 2 and 3**

**14.** After Schedule 1 (as so renumbered) insert—

“SCHEDULE 2

Article 2(1)

Land criteria

**Meeting the land criteria**

**1.** A relevant feedstock meets the land criteria if the renewable transport fuel supplier provides evidence, by reference to the guidance published by the Administrator under article 15(1)(m), that satisfies the Administrator that the relevant feedstock was not obtained from land of a description falling within paragraphs 2 to 4, subject to the exceptions set out in those paragraphs.

**Prohibited land categories**

**2.** Land with a high biodiversity value 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 or 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) land not falling within sub-paragraph (a) which is, or which has been identified as, highly biodiverse forest or other wooded land that is species-rich and not degraded, unless—
  - (i) the land is designated for nature protection purposes; and
  - (ii) evidence is provided that satisfies the Administrator that the production of the relevant feedstock did not interfere with the purposes for which the land is designated for nature protection purposes;
- (c) land not falling within sub-paragraphs (a) or (b) which is designated for nature protection purposes, including for the protection of rare, threatened or endangered ecosystems or species, unless evidence is provided that satisfies the Administrator that the production of the relevant feedstock did not interfere with the purposes for which the land is designated for nature protection purposes;
- (d) highly biodiverse grassland spanning more than one hectare that is—

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

3.—(1) Land with high-carbon stock that had one of the following statuses at any time in January 2008 and which no longer has that status—

- (a) wetlands, where the land is covered with, or saturated by, water permanently or for a significant part of the year;
- (b) continuously forested areas 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 satisfies the Administrator that the GHG emission saving from the use of the renewable transport fuel concerned is equal to or greater than the minimum GHG emission saving applicable to the fuel at the time when it is used, as set out in Schedule 1.

(2) But this paragraph does not apply if, at the time the relevant feedstock was harvested, the land concerned had the same status as it had in January 2008.

4. Land that was peatland at any time in January 2008, unless evidence is provided that satisfies the Administrator that the cultivation and harvesting of the raw material concerned did not involve drainage of previously undrained soil.

## SCHEDULE 3

Article 2(1)

### Forest criteria

#### Meeting the forest criteria

1. Forest biomass meets the forest criteria if the renewable transport fuel supplier provides evidence, by reference to the guidance published by the Administrator under article 15(1)(m), that satisfies the Administrator that the requirements in paragraphs 2 and 3 are met, subject to the exceptions set out in those paragraphs.

#### Legal framework

2.—(1) The country in which the forest biomass was harvested has in place a legal framework, including monitoring and enforcement systems, to ensure that—

- (a) the forest biomass has been harvested in accordance with applicable laws;
- (b) the area of harvesting of the forest biomass is subject to forest regeneration, and for this purpose “forest regeneration” means the re-establishment of a forest stand by natural or artificial means following the removal of the previous stand by felling or as a result of natural causes, including fire or storm;

- (c) the forest biomass has not been harvested from wetlands, peatlands or from a protected area, unless—
  - (i) the land is designated for nature protection purposes; and
  - (ii) the production of the relevant feedstock did not interfere with the purposes for which the land is designated for nature protection purposes;
- (d) the harvesting of the forest biomass has been carried out with consideration for the maintenance of, and with the aim of minimising any decline in, soil quality and biodiversity; and
- (e) the harvesting of the forest biomass has been carried out in a manner that maintains or improves the long-term production capacity of the forest from which it was harvested.

(2) But if evidence is not available to demonstrate that the legal framework described in sub-paragraph (1) is in place in the country concerned, then the Administrator must be satisfied that management systems at the forest sourcing area level were in place in that country to ensure that the conditions in sub-paragraph (1)(a) to (e) were met.

(3) In this Schedule, “sourcing area” means the geographically defined area from which the forest biomass is sourced, from which reliable and independent information is available to show that the conditions in sub-paragraph (1)(a) to (e) were met, and where conditions are sufficiently homogeneous to evaluate the risk of the sustainability and legality characteristics of the forest biomass.

#### **Land-use, land-use change and forestry**

**3.—(1)** The country or regional economic integration organisation of origin of the forest biomass is a party to the 2015 Paris Agreement adopted under the United Nations Framework Convention on Climate Change<sup>(1)</sup> and—

- (a) has submitted a nationally determined contribution (“NDC”) to the United Nations Framework Convention on Climate Change, covering emissions and removals from agriculture, forestry and land use which ensures that changes in carbon stock associated with forest biomass harvest are counted towards the country’s commitment to reduce or limit GHG emissions as specified in the NDC; or
- (b) has laws in place, which are applicable in the area of the harvesting, and which regulate the harvesting of forest biomass, to conserve and enhance carbon stocks and sinks, and which require that evidence is provided to show that reported land-use, land-use change and forestry-sector emissions do not exceed removals.

(2) But if evidence is not available to demonstrate that the requirement in sub-paragraph (1) is satisfied, then the Administrator must be satisfied that management systems were in place at the forest sourcing area level to ensure that carbon stocks and sink levels in the forest are maintained or increased over the long-term.”.

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(1) A copy of the Paris Agreement can be viewed at: <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>. Hard copies are available for inspection at reasonable times by prior arrangement with the Low Carbon Fuels Division, Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR.