

SCHEDULE 1

Authorised development

PART 3

Requirements

Biomass fuel sustainability

42.—(1) Biomass fuel shall not be used in the gasifier comprised in the authorised development unless it complies with the applicable mandatory sustainability criteria.

(2) In this requirement—

“applicable mandatory sustainability criteria” means—

- (a) the mandatory sustainability criteria which the undertaker must comply with from time to time as a condition of eligibility of the authorised development for financial assistance under a relevant assistance regime; or
- (b) if financial assistance has been granted under a relevant assistance scheme in respect of the authorised development for a limited period of time and that period has elapsed so that the authorised development is no longer eligible for financial assistance under any relevant assistance regime, those criteria by compliance with which the operation of the authorised development was most recently eligible for such assistance,

and biomass fuel shall be taken to comply with the applicable mandatory sustainability criteria if, at that time, the undertaker has reason to believe that they comply with the applicable mandatory sustainability criteria;

“biomass fuel” means fuel, excluding material which is, or is derived directly or indirectly from animal matter, which qualifies as ‘biomass’ under—

- (a) article 4 of the Renewables Obligation Order 2009⁽¹⁾ (as amended from time to time by other subsequent legislation relevant to power generation);
- (b) such provisions of a relevant assistance regime incorporating applicable mandatory sustainability criteria as define biomass for the purposes of that regime from time to time;

“mandatory sustainability criteria” means criteria relating to the sustainability of biomass for energy use (other than biofuels and bioliquids) which are prescribed in a relevant assistance regime; and

“relevant assistance regime” means the provisions of any legislation or other legally binding arrangements established or approved by Government under or by virtue of which the generation of electricity from biomass fuel on a commercial basis qualifies for financial assistance by reason of the burning of biomass fuel which comply with prescribed sustainability criteria.

(1) [S.I. 2009/785](#).