
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the following Orders (the “Renewables Obligation Orders”)—

- the Renewables Obligation Order 2015 (S.I. 2015/1947) (the “ROO”);
- the Renewables Obligation (Scotland) Order 2009 (S.S.I. 2009/140) (the “ROSO”); and
- the Renewables Obligation Order (Northern Ireland) 2009 (S.R. 2009/154) (the “ROONI”).

These Regulations transpose, in relation to the Renewables Obligation Orders, amendments to [Directive 2009/28/EC](#) of the European Parliament and of the Council of 23rd April 2009 on the promotion of the use of energy from renewable sources (the “Renewables Directive”) made by Directive (EU) 2015/1513 of the European Parliament and of the Council of 9th 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.

The changes made by these Regulations to the Renewables Obligation Orders are as follows—

- It is provided that the term “waste” does not include any substance intentionally modified or contaminated to fall within the definition of “waste” in Article 3(1) of [Directive 2008/98/EC](#) of the European Parliament and of the Council of 19th November 2008 on waste (see amended definition of “waste” in article 2(1) of each of the Renewables Obligation Orders).
- It is provided that references to residue do not, in the case of residue from processing, include references to any substance that is a primary aim of a production process or that the process has been deliberately modified to produce (see new article 2(7) of the ROO; new article 2(9) of the ROSO; and new article 2(8) of the ROONI).
- Operators of generating stations (other than microgenerators) that generate electricity from bioliquid must provide Ofgem with information about the energy content of the bioliquid produced from certain categories of crop (see amendments to article 82 of the ROO; to article 54 of the ROSO; and to article 46 of the ROONI).
- The minimum greenhouse gas emissions savings that must be achieved before renewables obligation certificates may be issued in respect of the generation of electricity from bioliquid is increased from 50% to 60% in certain cases (see the new definition of “relevant percentage” in paragraph 1 of Schedule 1 to the ROO; in paragraph 1 of Schedule A1 to the ROSO; and in paragraph 1 of Schedule A1 to the ROONI). The effect of the amendment is that the higher minimum applies in all cases where bioliquid produced by an installation that started producing liquid fuel from biomaterial on or after 6th October 2015 is used to generate electricity on or after 1st January 2018.
- Certain restrictions on using default values set out in Annex 5 to the Renewables Directive to calculate greenhouse gas emission savings from the use of a bioliquid are removed. For example, the default values may now be used irrespective of whether the biomaterial from which the bioliquid is made was cultivated within or outside the European Union (see amendments to paragraphs 5 and 6 of Schedule 1 to the ROO; to paragraphs 5 and 6 of Schedule A1 to the ROSO; and to paragraphs 5 and 6 of Schedule A1 to the ROONI).
- Renewables obligation certificates may not be issued in respect of electricity generated from bioliquid or, subject to exceptions, from solid and gaseous biomass unless the fuel meets the “land criteria” (see articles 61 and 63 of the ROO; articles 22ZA and 22A of the ROSO; and articles 21ZA and 21A of the ROONI). It is provided that references to residue from

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agriculture, aquaculture, fisheries or forestry are references to residue directly generated by such industries (see new paragraph 1(2) of Schedule 3 to the ROO; new paragraph 1(2) of Schedule A2 to the ROSO; and new paragraph 1(2) of Schedule A2 to the ROONI). The effect is to make clear that fuel (other than woody biomass) made from residue that is not directly generated by agriculture, aquaculture, fisheries or forestry but by related industries or processing will meet the land criteria in all cases. The position is unchanged for fuel made from residue directly generated by agriculture, aquaculture, fisheries or forestry. So, for example, bioliquid made from such residue that is obtained from a protected source (as defined) will not meet the land criteria.

An explanatory memorandum and a transposition note are available with these Regulations on www.legislation.gov.uk.

An impact assessment has not been produced for this instrument as no significant impacts on business or the public or voluntary sectors are foreseen.