
STATUTORY INSTRUMENTS

2019 No. 35

**EXITING THE EUROPEAN UNION
ELECTRICITY**

**The Renewables Obligation (Amendment)
(EU Exit) Regulations 2019**

<i>Sift requirements satisfied</i>	<i>11th December 2018</i>
<i>Made - - - -</i>	<i>10th January 2019</i>
<i>Laid before Parliament</i>	<i>16th January 2019</i>
<i>Coming into force in accordance with regulation 1(2)</i>	

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018⁽¹⁾.

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

Citation and commencement

1.—(1) These Regulations may be cited as the Renewables Obligation (Amendment) (EU Exit) Regulations 2019.

(2) These Regulations come into force on exit day.

Amendments

2.—(1) Schedule 1 (which amends the Renewables Obligation Order 2015⁽²⁾) has effect.

(2) Schedule 2 (which amends the Renewables Obligation (Scotland) Order 2009⁽³⁾) has effect.

(3) Schedule 3 (which amends the Renewables Obligation Order (Northern Ireland) 2009⁽⁴⁾) has effect.

(1) 2018 c. 16.

(2) S.I. 2015/1947, to which there are amendments not relevant to these Regulations.

(3) S.S.I. 2009/140, amended by S.S.I. 2011/225, 2014/94 and 2015/384; there are other amending instruments but none is relevant.

(4) S.R. 2009/154, amended by S.R. 2011/169, 2013/116 and 2016/84; there are other amending instruments but none is relevant.

10th January 2019

Claire Perry
Minister of State for Climate Change and
Industry
Department for Business, Energy and Industrial
Strategy

SCHEDULE 1

Regulation 2(1)

Renewables Obligation Order 2015

Renewables Obligation Order 2015 amended

1. The Renewables Obligation Order 2015 is amended in accordance with paragraphs 2 to 9.

Article 2 amended (interpretation)

- 2.—(1) Article 2 is amended as follows.
- (2) In paragraph (1) omit the definition of “permitted termination event”.

Article 45 amended (generating stations using excluded capacity to generate electricity)

- 3.—(1) Article 45 is amended as follows.
- (2) In paragraph (4)(e) omit paragraph (ii) and the “and” preceding it.

Article 50 amended (combustion units in relation to which a CFD or investment contract has been entered into)

- 4.—(1) Article 50 is amended as follows.
- (2) In paragraph (1)(b) omit paragraph (ii) and the “and” preceding it.
- (3) In paragraph (4) omit from “unless” to the end.

Article 62 amended (common agricultural policy requirements in the case of bioliquids)

- 5.—(1) Article 62 is amended as follows.
- (2) The existing text becomes paragraph (1).
- (3) In paragraph (1)(a)(ii) for “cultivated in the EU” substitute “cultivated in the United Kingdom or the EU”.
- (4) After paragraph (1) insert—
 - “(2) In paragraph (1), a reference to the 2013 Regulation is a reference to—
 - (a) in relation to biomaterial cultivated in the United Kingdom on or after exit day, the 2013 Regulation as it forms part of domestic law;
 - (b) in any other case, the 2013 Regulation as it has effect in EU law.”.

Article 88 amended (preliminary accreditation of generating stations)

- 6.—(1) Article 88 is amended as follows.
- (2) In paragraph (2)(c) omit “subject to paragraph (3),”.
- (3) Omit paragraph (3).

Article 89 amended (accreditation of generating stations)

- 7.—(1) Article 89 is amended as follows.
- (2) In paragraph (4)(e) omit “subject to paragraph (8),”.
- (3) Omit paragraph (8).
- (4) In paragraph (9)(b)—

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- (a) omit “either—”;
- (b) omit paragraph (ii) and the “or” preceding it.

Article 91 amended (registration of offshore wind turbines)

- 8.—(1) Article 91 is amended as follows.
- (2) In paragraph (5)(b) for “one of the documents” substitute “the document”.

Article 92 amended (registration of additional capacity)

- 9.—(1) Article 92 is amended as follows.
- (2) In paragraph (5)(b)—
 - (a) omit “either—”;
 - (b) omit paragraph (ii) and the “or” preceding it.

SCHEDULE 2

Regulation 2(2)

Renewables Obligation (Scotland) Order 2009

Renewables Obligation (Scotland) Order 2009 amended

- 1. The Renewables Obligation (Scotland) Order 2009 is amended in accordance with paragraphs 2 and 3.

Article 22B amended (common agricultural policy requirements)

- 2.—(1) Article 22B is amended as follows.
- (2) The existing text becomes paragraph (1).
- (3) In paragraph (1)(a)(ii) for “cultivated in the EU” substitute “cultivated in the United Kingdom or the EU”.
- (4) After paragraph (1) insert—
 - “(2) In paragraph (1), a reference to the 2013 Regulation is a reference to—
 - (a) in relation to biomaterial cultivated in the United Kingdom on or after exit day, the 2013 Regulation as it forms part of domestic law;
 - (b) in any other case, the 2013 Regulation as it has effect in EU law.”.

Article 58 amended (preliminary accreditation of generating stations)

- 3.—(1) Article 58 is amended as follows.
- (2) In paragraph (4) omit sub-paragraphs (a) to (c) including the “or” at the end of sub-paragraph (c).

SCHEDULE 3

Regulation 2(3)

Renewables Obligation Order (Northern Ireland) 2009

Renewables Obligation Order (Northern Ireland) 2009 amended

1. The Renewables Obligation Order (Northern Ireland) 2009 is amended in accordance with paragraph 2.

Article 21B amended (common agricultural policy requirements)

2.—(1) Article 21B is amended as follows.

(2) The existing text becomes paragraph (1).

(3) In paragraph (1)(a)(ii) for “cultivated in the EU” substitute “cultivated in the United Kingdom or the EU”.

(4) After paragraph (1) insert—

“(2) In paragraph (1), a reference to the 2013 Regulation is a reference to—

(a) in relation to biomaterial cultivated in the United Kingdom on or after exit day, the 2013 Regulation as it forms part of domestic law;

(b) in any other case, the 2013 Regulation as it has effect in EU law.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16). They amend 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 (Northern Ireland) 2009 (S.R. 2009/154) (the “ROONI”) to address failures of the Orders to operate effectively and other deficiencies (in particular under section 8(2)(a) and (g) of the European Union (Withdrawal) Act 2018) in consequence of the United Kingdom’s withdrawal from the European Union.

Article 62 of the ROO, article 22B of the ROSO and article 21B of the ROONI are amended to ensure that the provisions continue to apply in the case of electricity generated from a bioliquid derived from biomaterial of agricultural origin (other than waste) that is cultivated in the United Kingdom after the United Kingdom leaves the European Union. No renewables obligation certificates will be issued in the case of electricity generated from such a bioliquid if the biomaterial from which the bioliquid was derived was cultivated in a manner that breaches certain requirements set out in Regulation (EU) No. 1306/2013 of the European Parliament and of the Council of 17th December 2013 on the financing, management and monitoring of the common agricultural policy, O.J. No L 347, 20.12.2013, p. 549 (the “2013 Regulation”). In accordance with section 3 of the European Union (Withdrawal) Act 2018, the 2013 Regulation forms part of domestic law on and after exit day.

The definition of “permitted termination event” in article 2 of the ROO is omitted. Following the withdrawal of the United Kingdom from the European Union, permitted termination events will no

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longer be relevant. Consequential amendments are made to articles 45, 50, 88, 89, 91 and 92 of the ROO.

The definition of “permitted termination event” in article 58 of the ROSO is amended to remove references to events that, following the withdrawal of the United Kingdom from the European Union, will no longer be relevant.

An explanatory memorandum is available with these Regulations on www.legislation.gov.uk.

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