
D R A F T

2014 No.

ELECTRICITY, ENGLAND AND WALES

The Renewables Obligation (Amendment) Order 2014

Made - - - - *****

Coming into force - - *1st April 2014*

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Renewables Obligation (Amendment) Order 2014 and comes into force on 1st April 2014.

(2) This Order extends to England and Wales only.

(3) In this Order, “the 2009 Order” means the Renewables Obligation Order 2009(a).

Amendments to article 2 of the 2009 Order (interpretation)

2. Article 2(1) of the 2009 Order(b) is amended as follows—

(a) At the appropriate place insert—

““ISAE 3000” means the International Standard on Assurance Engagements 3000(c) promulgated by the International Federation of Accountants;”;

““municipal waste” means—

(a) waste from households, and

(b) other waste that, because of its nature or composition, is similar to waste from households;”.

(b) For the definition of “CHPQA” substitute—

““CHPQA” means the Combined Heat and Power Quality Assurance Standard, Issue 5 published by the Department of Energy and Climate Change in November 2013 and Guidance Note 44 (Use of CHPQA to obtain support for electrical output from renewable CHP under the renewables obligation), Issue 4, published by the Department of Energy and Climate Change in December 2013(d);”.

Amendment to article 3 of the 2009 Order (waste as a renewable source)

3. In article 3(7) of the 2009 Order omit “, “municipal waste””.

(a) S.I. 2009/785 as amended by S.I. 2010/1107, S.I. 2011/984, S.I. 2011/988 and S.I. 2013/768.

(b) Article 2 was amended by article 3 of S.I. 2011/984, paragraph 29 of Schedule 4 to S.I. 2011/988 and article 2 of S.I. 2013/768.

(c) The International Standard on Assurance Engagements 3000 is set out from page 87 of Part II of the publication entitled “Handbook of International Quality Control, Auditing, Review, Other Assurance, and Related Services Pronouncements” (2013 edition) (ISBN 978-1-60815-152-3) published by the International Federation of Accountants. Copies can be obtained from www.ifac.org.

(d) Copies can be obtained from the Department of Energy and Climate Change and are available at <http://chpqa.decc.gov.uk/chpqa-documents>.

Amendments to article 54 of the 2009 Order (information to be provided to the Authority where electricity is generated from biomass)

4.—(1) Article 54 of the 2009 Order(a) is amended as follows.

(2) In paragraph (1)(a), for “waste, biomass wholly derived from waste” substitute “municipal waste”.

(3) For paragraphs (2) and (3) substitute—

“(2) In relation to each consignment of biomass (other than landfill gas, sewage gas or municipal waste) 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) excreta produced by animals, or
 - (ii) waste,the information specified in paragraph (3ZA), and
- (c) other than in the case of biomass which was—
 - (i) bioliquid,
 - (ii) excreta produced by animals,
 - (iii) waste, or
 - (iv) wholly derived from waste,the information specified in paragraph (3ZB).

(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 waste or wholly derived from waste;
- (d) whether the biomass was excreta produced by animals;
- (e) where the biomass was plant matter or derived from plant matter, the country where the plant matter was grown; and
- (f) where the information specified in sub-paragraph (e) is not known or the biomass was not plant matter or derived from plant matter, the country from which the operator obtained the biomass.

(3ZA) 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

(a) Article 54 was amended by article 13 of S.I. 2010/1107, article 12 of S.I. 2011/984 and article 20 of S.I. 2013/768.

- (e) where the biomass was wood or 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) the species of wood in question; and
 - (iv) the proportion of the biomass (if any) that was composed of, or derived from, saw logs.

(3ZB) 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 was wood or derived from wood—
 - (i) whether the biomass meets the timber standard or an equivalent standard, and
 - (ii) where the biomass does not meet the timber standard or an equivalent standard, the main reasons why biomass meeting the timber standard or an equivalent standard was not used;
- (c) where the biomass was not wood or derived from wood—
 - (i) whether the biomass meets the land criteria; and
 - (ii) where the biomass does not meet the land criteria, the main reasons why biomass meeting the land criteria was not used;
- (d) where—
 - (i) the biomass was used in a post-2013 dedicated biomass station, and
 - (ii) the greenhouse gas emissions from the use of the biomass to generate one mega joule of electricity are greater than 66.7 grams,
the main reasons why biomass with lower greenhouse gas emissions was not used;
- (e) where—
 - (i) the biomass was used in a generating station other than a post-2013 dedicated biomass station, and
 - (ii) the greenhouse gas emissions from the use of the biomass to generate one mega joule of electricity are greater than 79.2 grams,
the main reasons why biomass with lower greenhouse gas emissions was not used;
and
- (f) where the biomass was wood or derived from wood and any of the information specified in sub-paragraphs (a) and (b)(i) is not known or where the biomass was not wood or derived from wood and any of the information specified in sub-paragraphs (a) and (c)(i) 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.”.

(4) In paragraph (3A), for “paragraph (3)(l)” substitute “paragraph (3ZB)(a)”.

(5) In paragraph (3B), before sub-paragraph (a) insert—

“(za) the biomass was used in a generating station with a total installed capacity of less than 1 megawatt;”.

(6) For paragraph (4) substitute—

“(4) 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 ROCs

to which the operator would otherwise be entitled, postpone the issue of those ROCs (up to the specified number) until such time as the information is provided.”.

(7) In paragraph (5), for “specified in paragraph (3)” substitute “required by paragraph (2)”.

(8) In paragraph (6)—

(a) after the definition of “default value method” omit “and”; and

(b) for the definition of “environmental quality assurance scheme” substitute—

““post-2013 dedicated biomass station” means a generating station which—

(a) was not accredited on or before 31st March 2013, and

(b) has, in any month after March 2013, generated electricity in the way described as “dedicated biomass” in Schedule 2;

“saw logs” means wood which formed part of the trunk of a tree which grew for at least 10 years;

“timber standard” means the Timber Standard for Heat & Electricity: woodfuel used under the Renewable Heat Incentive and Renewables Obligation published by the Department of Energy and Climate Change on [](a); and

“waste” does not include excreta produced by animals.”.

Amendments to article 54A of the 2009 Order (bioliqid sustainability audit report)

5.—(1) Article 54A of the 2009 Order(b) is amended as follows.

(2) In paragraph (3), for sub-paragraphs (b) to (d) substitute—

“(b) consider whether the systems used to produce the relevant sustainability information are likely to produce information which is reasonably accurate and reliable;

(ba) consider whether there are controls in place to help protect the relevant sustainability information against material misstatements due to fraud or error;

(c) consider the frequency and methodology of any sampling carried out for the purpose of obtaining or checking the data on which the operator relied in preparing the relevant sustainability information;

(d) consider the robustness of the data on which the operator relied in preparing the relevant sustainability information;

(da) state whether anything has come to the attention of the person preparing the report to indicate that the relevant sustainability information is not accurate;”.

(3) For paragraph (5) substitute—

“(5) A sustainability audit report shall be deemed to have been prepared to an adequate standard if it has been prepared in accordance with the requirements in respect of limited assurance engagements prescribed in ISAE 3000, or an equivalent standard.”.

(4) In paragraph (8), for the definition of “environmental quality assurance scheme” substitute—

““environmental quality assurance scheme” means a voluntary scheme which establishes environmental or social standards in relation to the production of bioliqid or matter from which a bioliqid is derived;”.

Solid and gaseous biomass sustainability audit report

6. After article 54A of the 2009 Order insert—

(a) Copies can be obtained from the Department of Energy and Climate Change and are available at [web link].

(b) Article 54A was inserted by article 13 of S.I. 2011/984 and amended by article 21 of S.I. 2013/768.

“Solid and gaseous biomass sustainability audit report

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

- (a) has a total installed capacity of at least 1 megawatt, and
- (b) generates electricity (wholly or partly) from biomass.

(2) In relation to each consignment of biomass used in a generating station to which this article applies, and in respect of which the operator of the station has—

- (a) in the case of biomass which is waste or wholly derived from waste, provided the information specified in article 54(3)(c);
- (b) in the case of biomass which is not waste or wholly derived from waste, provided the information specified in article 54(3ZB)

the operator of the station must, by the 30th June immediately following the obligation period during which the biomass was used (“the relevant date”), provide the Authority with a sustainability audit report meeting the requirements specified in paragraph (3).

(3) The requirements specified in this paragraph are that the sustainability audit report must—

- (a) be prepared by a person who is not—
 - (i) the owner or operator of the generating station, or
 - (ii) a connected person, in relation to the owner or operator of the generating station;
- (b) consider whether the systems used to produce the relevant information are likely to produce information which is reasonably accurate and reliable;
- (c) consider whether there are controls in place to help protect the relevant information against material misstatements due to fraud or error;
- (d) consider the frequency and methodology of any sampling carried out for the purpose of obtaining or checking the data on which the operator relied in preparing the relevant information;
- (e) consider the robustness of the data on which the operator relied in preparing the relevant information;
- (f) state whether anything has come to the attention of the person preparing the report to indicate that the relevant information is not accurate; and
- (g) be prepared in accordance with the requirements in respect of limited assurance engagements prescribed in ISAE 3000, or an equivalent standard.

(4) 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 a sustainability audit report meeting the requirements specified in paragraph (3) by the relevant date, the Authority must, in relation to any ROCs to which the operator would otherwise be entitled, postpone the issue of those ROCs (up to the specified number) until such time as the sustainability audit report is provided.

(5) For the purposes of paragraph (4), the specified number is the number of ROCs which the Authority has or estimates that it has or, but for this article, would have issued in respect of the electricity generated by the biomass in relation to which a sustainability audit report meeting the requirements specified in paragraph (3) should have been provided.

(6) In this article, “relevant information” means—

- (a) in relation to a consignment of biomass which is waste or wholly derived from waste, the information specified in article 54(3)(c) that is provided to the Authority by the operator of the generating station in respect of the consignment;
- (b) in relation to a consignment of biomass which is not waste or wholly derived from waste, the information specified in article 54(3ZB) that is provided to the Authority by the operator of the generating station in respect of the consignment.

(7) References in this article to biomass do not include bioliquid, landfill gas, sewage gas, municipal waste or excreta produced by animals.”.

Amendment to article 57 (functions of the Authority)

7. In article 57(2)(b) of the 2009 Order(a) omit “or 54(4)”.

Amendments to Schedule A2 to the 2009 Order (land criteria)

8.—(1) Schedule A2 to the 2009 Order(b) is amended as follows.

(2) For paragraph 3(1) substitute—

“(1) Fuel meets the land criteria if—

(a) in the case of bioliquid, the biomaterial from which the fuel was made was—

(i) waste,

(ii) residue (other than residue from agriculture, aquaculture, fisheries or forestry), or

(iii) obtained from a permitted source;

(b) in all other cases, the biomaterial from which the fuel was made was—

(i) waste,

(ii) residue (other than residue from agriculture, aquaculture, fisheries or forestry),

(iii) obtained from a permitted source,

(iv) energy crops in respect of which financial assistance was paid under the Energy Crops Regulations 2000(c), or under an equivalent financial assistance scheme, or

(v) added to the fuel for an exempt purpose.”.

(3) After paragraph 3(8) insert—

“(8A) For the purposes of sub-paragraph (1)(b)(v), biomaterial is added to a fuel for an exempt purpose if—

(a) it is added to the fuel—

(i) to act as a binding agent, or

(ii) to reduce the emissions of dust, carbon dioxide, methane or nitrous oxide from the use of the fuel, and

(b) it does not exceed 2% by weight of the fuel.”.

Amendments to Schedule 3A to the 2009 Order (actual value method for calculating emissions from the use of biomass)

9.—(1) Paragraph 2(d) of Schedule 3A to the 2009 Order(d) is amended as follows.

(2) For paragraph (x)(cc) substitute—

“(cc) before “and residues from processing” there was inserted “residues from forestry, arboriculture, aquaculture and fisheries”;

(dd) for “fuels” there was substituted “biomass”; and”.

(3) For paragraph (xi) substitute—

(a) Article 57 was amended by article 14 of S.I. 2011/984.

(b) Schedule A2 was inserted by article 16 of S.I. 2011/984.

(c) S.I. 2000/3042. Amendments have been made by article 6(2)(b) of S.I. 2011/1043 and s.73(2) of the Countryside and Rights of Way Act 2000 (c.37) and regulation 3 of S.I. 2001/3900.

(d) Schedule 3A was inserted by article 18 of S.I. 2011/984.

“(xi) for paragraph 19 there was substituted—

“**19.** Where material is added to the biomass to act as a binding agent or to reduce the emissions of dust, carbon dioxide, methane or nitrous oxide from the use of the biomass, the material so added shall be considered to have zero life-cycle greenhouse gas emissions, provided that the material so added does not exceed 2% by weight of the biomass.”; and”.

Transitional provision

10. Nothing in this Order is to affect—

- (a) the issue or revocation of a renewables obligation certificate in respect of electricity generated before 1st April 2014, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to such issue or revocation, under the 2009 Order;
- (b) any obligations or requirements imposed on an operator of a generating station or some other person in respect of the obligation period ending on 31st March 2014, and anything which falls to be done or determined (whether by the operator of the generating station or some other person) in relation to any such obligations or requirements, under the 2009 Order; and
- (c) any obligations or functions of the Authority in respect of that obligation period, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to that obligation period, under the 2009 Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Renewables Obligation Order 2009 (“the 2009 Order”) and makes transitional provision.

The 2009 Order imposes an obligation (“the renewables obligation”) on electricity suppliers which supply electricity in England and Wales. Suppliers must produce, by a specified day, a certain number of renewables obligation certificates (“ROCs”) in respect of each megawatt hour of electricity that each supplies during a specified period known as an obligation period. The renewables obligation is administered by the Gas and Electricity Markets Authority (“the Authority”) who issue ROCs to renewable electricity generators in respect of their eligible renewable output.

Article 2 amends the definition of “CHPQA” in article 2 of the 2009 Order and inserts definitions for “ISAE 3000” and “municipal waste”. A consequential amendment is made by article 3 to article 3(7) of the 2009 Order.

Article 4 amends article 54 of the 2009 Order, which sets out information to be provided where electricity is generated from biomass. Article 4(2) widens the types of biomass to which article 54 of the 2009 Order applies. Article 4(3) changes the date by which the information must be provided and changes the nature of some of the information requirements (including the types of biomass to which some of the information requirements apply).

Article 4(5) adds a new restriction on the circumstances in which the default value method can be used to calculate the greenhouse gas emissions from the use of biomass.

Article 4(6) substitutes article 54(4) of the 2009 Order to remove the requirement on the Authority to refuse the issue of ROCs if the information is not provided by the 31st August immediately following the obligation period in which the biomass was used. A consequential amendment is made by article 7 to article 57 of the 2009 Order.

Article 4(8) omits the definition of “environmental quality assurance scheme” and inserts some new definitions.

Article 5 amends article 54A of the 2009 Order, which relates to the bioliquid sustainability audit report and which implements, in relation to the renewables obligation, the first two sub-paragraphs of Article 18(3) of Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources^(a) and Commission Decision 2011/13/EU on certain types of information about biofuels and bioliquids to be submitted by economic operators to Member States^(b). Article 5(2) changes some of the requirements that must be met by a bioliquid sustainability audit report. Article 5(3) substitutes article 54A(5) of the 2009 Order so that the audit report is deemed to have been prepared to an adequate standard if it is has been prepared in accordance with the ISAE 3000 standard for limited assurance engagements. Article 5(4) inserts a definition for “environmental quality assurance scheme”.

Article 6 inserts article 54B into the 2009 Order to require a sustainability audit report to be provided to the Authority in respect of the information submitted by the operator of a generating station in accordance with article 54(3)(c) of the 2009 Order (in the case of biomass which is waste or wholly derived from waste) or article 54(3ZB) of the 2009 Order (in the case of other biomass). There are exceptions for certain types of biomass and the requirement does not apply in the case of generating stations with a total installed capacity of less than 1 megawatt.

Article 8 amends Schedule A2 to the 2009 Order to set out additional circumstances in which fuel (other than bioliquid) meets the land criteria.

Article 9 amends Schedule 3A to the 2009 Order, which sets out the actual value method for the calculation of greenhouse gas emissions from the use of solid or gaseous biomass. Article 9(2) amends Schedule 3A to ensure that certain residues are treated as having zero life-cycle greenhouse gas emissions up to the process of collection of those materials. Article 9(3) amends Schedule 3A so that certain additives are treated as having zero life-cycle greenhouse gas emissions, provided that they do not exceed 2% by weight of the biomass.

Article 10 makes transitional provision in respect of the obligation period ending on 31st March 2014.

An explanatory memorandum is available alongside this Order on www.legislation.gov.uk. An impact assessment of the effect that this Order will have on the costs of business and the voluntary sector is available alongside the Order on that website.

(a) OJ L 140, 5.6.2009, p.16.

(b) OJ L 9, 13.1.2011, p.11.