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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 140**

**The Renewables Obligation (Scotland) Order 2009**

**PART 1**

**Introductory provisions**

**Waste as a renewable source**

**3.—(1)** For the purposes of sections 32 to 32M of the Act and this Order, the term “renewable sources” includes waste of which not more than 90 per cent is waste which is, or is derived from, fossil fuel.

(2) The proportion of waste which is, or is derived from, fossil fuel—

(a) is to be determined by the Authority, and

(b) is the energy content of the fossil fuel from which the waste is in part composed or derived expressed as a percentage of the energy content of the waste as a whole.

(3) Where waste is used (whether on its own or not) to fuel a generating station, it is for the operator of the generating station to demonstrate to the Authority’s satisfaction what proportion of the waste is, or is derived from, fossil fuel.

(4) Without prejudice to paragraph (3), when determining that proportion the Authority is entitled to have regard to any material (whether or not produced to it by the operator of the generating station) if, in its opinion, that material may indicate what proportion of the waste is, or is derived from, fossil fuel.

(5) Where the operator of a generating station in which municipal waste is used satisfies the Authority—

(a) by reference to data published by an allocating authority, a waste disposal authority or a waste collection authority, that the proportion of the municipal waste so used which is, or is derived from, fossil fuel, is unlikely to exceed 50 per cent; and

(b) that the municipal waste so used has not been subject to any process before being so used that is likely to have materially increased that proportion,

that constitutes sufficient evidence of the fact that the proportion of the municipal waste so used which is, or is derived from, fossil fuel is 50 per cent.

(6) Where—

(a) municipal waste is used in a generating station and—

(i) the Authority is not satisfied as to the matters identified in paragraph (5); or

(ii) the operator of the station claims that the proportion of that waste which is, or is derived from, fossil fuel is less than 50 per cent; or

(b) waste (not being municipal waste) is used in a generating station and the Authority is not satisfied as to what proportion of the waste is, or is derived from, fossil fuel,

the Authority may require the operator of the generating station to arrange for samples of any fuel used (or to be used) in the station, or of any gas or other substance produced as a result of the use

of such fuel, to be taken by a person, and analysed in a manner approved by the Authority, and for the results of that analysis to be made available to the Authority.

(7) In this article–

“allocating authority”, “municipal waste” and “waste disposal authority” have the same meaning as in Chapter 1 of Part 1 of the Waste and Emissions Trading Act 2003<sup>(1)</sup>; and  
“waste collection authority” has the same meaning as in Part 2 of the Environmental Protection Act 1990.

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<sup>(1)</sup> 2003 c. 33. See sections 21 and 24 of that Act.