

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2009 No. 140**

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

**PART 1**

**Introductory provisions**

**Biomass and fuels which are to be treated as biomass**

4.—(1) In this Order, “biomass” means fuel used in a generating station where—

- (a) at least 90 per cent of its energy content is derived from material which is, or is derived directly or indirectly from, plant matter, animal matter, fungi or algae (“relevant material”); and
- (b) if fossil fuel forms part of it—
  - (i) the fossil fuel is present following a process—
    - (aa) to which the relevant material has been subject; and
    - (bb) the undertaking of which has caused the fossil fuel to be present in, on or with that material even though that was not the object of the process; or
  - (ii) the fossil fuel is waste and was not added to it with a view to its being used as a fuel.

(2) For the purposes of this Order except for article 54 (information to be provided to the Authority where electricity is generated from biomass), a fuel which is used in a generating station with biomass but which is not biomass (including, where two or more of the fuels listed in article 2(4) are mixed together before being so used, each of those fuels which is not biomass) is to be treated as biomass if—

- (a) the energy content of the fuel is derived in part from relevant material and in part from fossil fuel;
- (b) either—
  - (i) the fossil fuel is present in it following a process—
    - (aa) to which its relevant material has been subject; and
    - (bb) the undertaking of which has caused the fossil fuel to be present in, on or with that material even though that was not the object of the process; or
  - (ii) it is waste and the fossil fuel forming part of it was not added to it with a view to its being used as a fuel; and
- (c) at least 90 per cent of the total energy content of the fuel and the biomass with which the fuel is used is derived from relevant material.

(3) Accordingly, any reference in this Order to biomass, other than in article 54, is to be construed as a reference to biomass or fuel which (by virtue of paragraph (2)) is to be treated as biomass.

(4) Where biomass (not being waste) is used, whether on its own or not, to fuel a generating station and a proportion of it is composed of fossil fuel, the proportion of it which is composed of fossil fuel—

- (a) is to be determined by the Authority; and

- (b) is the energy content of the fossil fuel from which it is in part composed expressed as a percentage of its energy content as a whole.
- (5) It is for the operator of the generating station to demonstrate to the Authority's satisfaction what proportion of the biomass is fossil fuel.
- (6) 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 biomass is fossil fuel.
- (7) For the purposes of this article, fossil fuel is not to be regarded as being derived directly or indirectly from plant matter, animal matter, fungi or algae.