
STATUTORY INSTRUMENTS

2007 No. 3072

The Renewable Transport Fuel Obligations Order 2007

PART 4

RTF CERTIFICATES

Application for RTF certificates

- 16.**—(1) The manner in which an application for an RTF certificate is to be made is—
- (a) in electronic form, through a website of the Administrator, or
 - (b) in another manner, in a case where the Administrator determines that it is necessary to allow an application in that manner.
- (2) The evidence which must be included in the application is—
- (a) a declaration from a person nominated by the supplier which confirms that the information submitted in the application or referred to in paragraph (3)(b), (c) or (d) is accurate to the best of the person’s knowledge and belief; and
 - (b) such other evidence as the Administrator may reasonably determine is necessary, and in such form as the Administrator may reasonably determine is appropriate, in order to substantiate the information provided by the supplier in relation to the renewable transport fuel.
- (3) For the purposes of section 127(3)(c) of the 2004 Act, the other conditions which must be satisfied for the issue of an RTF certificate are that—
- (a) the supplier has an RTF account;
 - (b) in the case of an obligated supplier, the supplier has provided the Administrator with the information required by the Administrator pursuant to article 12(1);
 - (c) in the case of a non-obligated supplier, the supplier has provided the Administrator with the information, in relation to that supplier, which is referred to in paragraph (1)(d) of article 12; and references in that paragraph to the “relevant period” are to such period during an obligation period as the Administrator notifies to the supplier for the purposes of article 13(3), or failing such notification, to such period during an obligation period as the Administrator notifies to the supplier for the purposes of this sub-paragraph;
 - (d) the supplier (whether obligated or non-obligated) has provided the Administrator with the information referred to in article 13(4); and has provided that information in relation to such period during an obligation period as the Administrator notifies to the supplier for the purposes of article 13(4), or failing such notification, to such period during an obligation period as the Administrator notifies to the supplier for the purposes of this sub-paragraph;
 - (e) the Administrator is satisfied that the information provided by the supplier under sub-paragraphs (b), (c) and (d) fulfils the criteria set out in paragraph (5),
 - (f) any duty of excise payable on the renewable transport fuel has been paid, and

- (g) the supplier makes the application for the RTF certificate within such period as the Administrator may require.
- (4) The person who makes the declaration referred to in paragraph (2)(a) must ensure that the information submitted in the application is accurate to the best of the person's knowledge and belief.
- (5) The criteria referred to in paragraph (3)(e) are that the information—
 - (a) is accurate, and
 - (b) has been provided—
 - (i) in such form,
 - (ii) using such methodology, and
 - (iii) within such period,as the Administrator notifies for the purposes of article 12(3) or 13(2), as the case may be, or failing such notification, as the Administrator notifies for the purposes of this paragraph.

Issue of RTF certificates

17.—(1) Where each of the requirements in article 16(1) to (3) has been met, the Administrator must issue an RTF certificate to a transport fuel supplier for each litre of renewable transport fuel which is—

- (a) for use as fuel in road vehicles (whether or not it may also be used in other vehicles),
- (b) of one of the descriptions set out in article 5(3),
- (c) owned by the supplier at the time when the requirement to pay the duty of excise with which the fuel is chargeable takes effect, and
- (d) supplied by the supplier at or for delivery to places in the United Kingdom during an obligation period.

(2) An RTF certificate must be issued as soon as reasonably practicable after an application for it has been made in accordance with article 16.

(3) For the purposes of section 127(2)(d) of the 2004 Act, “the other specified facts” are that the supplier has notified the Administrator of each of the matters listed in section 127(2)(a) to (c).

(4) For the purposes of this Order, the Administrator issues an RTF certificate to a supplier by recording the credit of an RTF certificate in the RTF account of the supplier.

(5) As soon as reasonably practicable after issuing an RTF certificate, the Administrator must notify the supplier of the issue of the certificate, and of the date and time of issue.

(6) As soon as reasonably practicable after receiving a request for the information from an account holder, the Administrator must inform the account holder of the number of RTF certificates (if any) held to the credit of that account holder's RTF account, and of the date and time of issue of those certificates.

Transfers of RTF certificates

18.—(1) A transfer of an RTF certificate may be made between any persons who are account holders.

(2) Such a transfer is not effective unless—

- (a) the transferor notifies the Administrator of the following details of the transfer—
 - (i) the name and account number of the account holder to whom the certificate is transferred,
 - (ii) the date of the transfer (“the notified date”), and

- (iii) the obligation period in respect of which the certificate was issued;
 - (b) the transferor so notifies the Administrator—
 - (i) through a website of the Administrator, or
 - (ii) in another manner, in a case where the Administrator determines that it is necessary to allow notification in that manner;
 - (c) the transferor so notifies the Administrator—
 - (i) on the date of the transfer, or
 - (ii) before the date of the transfer, in which case the notification must be within the period of one month ending immediately before the date of the transfer;
 - (d) the transfer relates to not more than one transferee;
 - (e) the RTF certificate is held to the credit of the transferor’s account at the date and time of the transfer, and
 - (f) the Administrator is satisfied that, at the date of the transfer, there is no reason to consider the revocation of the certificate under article 20.
- (3) Where—
- (a) a transfer relates to some (but not all) of the RTF certificates held by a transferor on the date of the transfer, and
 - (b) the RTF certificates held by the transferor on that date were not all issued at the same date and time,

it is to be presumed, unless the contrary is shown, that the transfer relates to the certificates which were issued at the earlier dates and times.

(4) In the event of there being an insufficient number of certificates held to the credit of a transferor’s account on the notified date to transfer certificates to two or more transferees, the Administrator must give priority to the transfer which was first notified to the Administrator.

(5) For the purposes of this Order, the Administrator transfers an RTF certificate from one account holder (“the transferor”) to another account holder (“the transferee”) by recording a debit of an RTF certificate in the transferor’s RTF account and a credit of an RTF certificate in the RTF account of the transferee.

Use of an RTF certificate in a later obligation period

19.—(1) In the circumstances referred to in paragraph (2), the production of an RTF certificate by a supplier to the Administrator may count as evidence that the amount of renewable transport fuel stated in the certificate was supplied at or for delivery to places in the United Kingdom during an obligation period that is later than the obligation period stated in the certificate.

(2) The circumstances are that the certificate is produced in relation to the obligation period (“the later period”) which immediately follows the obligation period stated in the certificate.

(3) But an RTF certificate may not count in relation to more than 25% of any renewable transport fuel obligation imposed on that supplier for that later period.

Revocation of an RTF certificate

20.—(1) Subject to the following paragraphs, the Administrator may revoke an RTF certificate where the Administrator is satisfied that—

- (a) the declaration provided in relation to that certificate pursuant to article 16(2)(a) is false,

- (b) the certificate was issued as a consequence of any fraudulent behaviour, statement or undertaking on the part of the transport fuel supplier to whom it was issued or any connected person,
 - (c) the information provided to the Administrator in relation to the certificate was materially inaccurate, or
 - (d) the evidence provided in relation to the information was insufficient to substantiate it.
- (2) Before revoking an RTF certificate, the Administrator must give notice in writing to the transport fuel supplier to whom the certificate was issued and, where the certificate has been transferred to another person to whose credit the certificate is held (a “transferee”), to that other person.
- (3) The notice must state—
- (a) that the Administrator is proposing to revoke the RTF certificate,
 - (b) the grounds for the proposed revocation,
 - (c) that the supplier and any transferee may make representations in writing to the Administrator in relation to the proposed revocation, and
 - (d) that any such representations must be made within such period as the Administrator specifies, not being a period of less than 14 days beginning on the date of receipt of the notice.
- (4) The Administrator—
- (a) must consider any representations which are made under paragraph (3) and are relevant to the proposed revocation,
 - (b) must decide whether to revoke the RTF certificate, but
 - (c) may not revoke the certificate—
 - (i) within a period of 28 days beginning on the date of the notice, or
 - (ii) later than the 28th August immediately following the obligation period during which the RTF certificate was issued.
- (5) Where the Administrator revokes an RTF certificate, the Administrator must, within a period of seven days beginning on the date of revocation, but in any event not later than the 29th August immediately following the obligation period during which the RTF certificate was issued—
- (a) give notice in writing of such revocation to the supplier to whom the certificate was issued, and to any transferee, and
 - (b) state in that notice—
 - (i) the grounds for the revocation,
 - (ii) that the supplier or any transferee (or both) may apply to the Chief Executive by notice in writing to reconsider the revocation, and
 - (iii) the requirements about that notice which are set out in paragraph (7).
- (6) Where the Administrator revokes an RTF certificate, the supplier to whom the certificate was issued or any transferee (or both) may apply to the Chief Executive by notice in writing to reconsider the revocation.
- (7) Such notice must—
- (a) be given to the Chief Executive within a period of 14 days beginning on the date of receipt of the notice of revocation, but in any event not later than the 12th September immediately following the obligation period during which the RTF certificate was issued,
 - (b) set out the grounds for reconsidering the revocation, and

(c) contain any representations which the supplier or transferee (as the case may be) wishes to make in relation to the reconsideration of the revocation.

(8) The Chief Executive must—

(a) consider any representations which the supplier or transferee has made under paragraph (7), and

(b) reconsider the revocation not later than the 28th September immediately following the obligation period in which the RTF certificate was issued.

(9) On reconsidering the revocation, the Chief Executive must—

(a) re-instate the RTF certificate, or

(b) confirm the revocation of the certificate on the grounds referred to in paragraph (5)(b)(i) or on other grounds.

(10) Where the Chief Executive is unable to reconsider the revocation, or unable to do so by the date referred to in paragraph (8), another member of the body corporate appointed as the Administrator may reconsider it.

(11) The Administrator must give notice in writing of the decision of the Chief Executive or other member and, in the case of a confirmation of a revocation of an RTF certificate, of the grounds for that revocation, to the supplier to whom the certificate was issued, and to any transferee.

(12) Where—

(a) neither the Chief Executive nor another member reconsiders the revocation by the date referred to in paragraph (8), or

(b) an RTF certificate is revoked but is subsequently re-instated,

the certificate is deemed to have been re-instated as at the end of the obligation period to which the certificate relates.

(13) The Administrator, Chief Executive or other member may hold an oral hearing before making a decision on a proposed revocation or on a reconsideration of a revocation (as the case may be).

(14) A person who provides information or produces evidence to the Administrator, Chief Executive or other member in respect of a proposed revocation or a reconsideration of a revocation must ensure that that information or evidence is accurate to the best of the person's knowledge or belief.