

Draft Regulations laid before Parliament under sections 124(5) and 192(3) of the Energy Act 2004, section 2(8) of the Pollution Prevention and Control Act 1999, and paragraph 2(2) of Schedule 2 to the European Communities Act 1972, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No.

TRANSPORT

ENERGY

CLIMATE CHANGE

**The Renewable Transport Fuels and Greenhouse Gas Emissions
Regulations 2018**

Made - - - - 2018

Coming into force - - 15th April 2018

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The Secretary of State, having consulted in accordance with section 124(4) of the Energy Act 2004(a) (“the 2004 Act”) and section 2(4) of the Pollution Prevention and Control Act 1999(b) (“the 1999 Act”), makes these Regulations in exercise of the powers conferred by: sections 124, 125A(1), 125B(1), 126(1) to (5), 127, 128(1) and (2), 129(1), 132(4) and 192(4) of the 2004 Act(c); sections 2 and 7(8) of, and paragraphs 1, 2, 11, 12, 17 and 21A of Schedule 1 to, the 1999 Act(d); and section 2(2) of the European Communities Act 1972(e) (“the 1972 Act”), as read with paragraph 1A of Schedule 2 to that Act(f).

The Secretary of State is a Minister designated for the purposes of section 2(2) of the 1972 Act in relation to the environment(g) and in relation to energy and energy sources(h).

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears expedient to the Secretary of State for certain references to provisions of European Union instruments to be construed as references to those provisions as amended from time to time.

A draft of these Regulations was laid before Parliament in accordance with sections 124(5) and 192(3) of the 2004 Act; section 2(8) of the 1999 Act; and paragraph 2(2) of Schedule 2 to the 1972 Act, and approved by a resolution of each House of Parliament.

PART 1

PRELIMINARY MATTERS

Citation and commencement

1. These Regulations may be cited as the Renewable Transport Fuels and Greenhouse Gas Emissions Regulations 2018 and come into force on 15th April 2018.

Extent

2. An amendment, repeal or revocation made by these Regulations has the same extent as the Act or instrument amended, repealed or revoked.

PART 2

AMENDMENT OF THE ENERGY ACT 2004

Introductory

3. The Energy Act 2004 is amended in accordance with this Part.

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- (a) 2004 c.20 (“the 2004 Act”).
 - (b) 1999 c.24 (“the 1999 Act”).
 - (c) Sections 125A, 125B and 126(5) of the 2004 Act were inserted by section 78 of, and Schedule 7 to, the Climate Change Act 2008 (c.27). Section 192(4) of the 2004 Act was amended by section 62 of the Scotland Act 2016 (c.11).
 - (d) Paragraph 21A of Schedule 1 to the 1999 Act was inserted by section 38 of the Waste and Emissions Trading Act 2003 (c.33). There are other amendments to the 1999 Act which are not relevant to these Regulations.
 - (e) 1972 c.68 (“the 1972 Act”). Section 2(2) of the 1972 Act was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).
 - (f) Paragraph 1A of Schedule 2 to the 1972 Act was inserted by section 28 of the Legislative and Regulatory Reform Act 2006. It was amended by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 and by S.I. 2007/1388.
 - (g) S.I. 2008/301.
 - (h) S.I. 2010/761.

Amendment of section 132 of the Energy Act 2004

- 4.—(1) Section 132 (interpretation of Chapter 5 of Part 2)(a) is amended as follows.
- (2) In subsection (3)(a)(iii), omit “agricultural or forestry”.
- (3) In subsection (4)—
- (a) omit the definition of “agricultural or forestry tractor”;
- (b) for the definition of “inland waterway vessel”, substitute—
- ““inland waterway vessel” means an inland waterway vessel, within the meaning given by Article 3(c) of the 2016 Directive, to which that Directive applies (see Article 2 of the 2016 Directive); and in this definition “the 2016 Directive” means Directive EU 2016/1629 of the European Parliament and of the Council of 14 September 2016(b) laying down technical requirements for inland waterway vessels;”;
- (c) for the definition of “non-road mobile machinery”, substitute—
- ““non-road mobile machinery” means non-road mobile machinery, within the meaning given by Article 3(1) of the 2016 Regulation, which has installed in it an engine within a category set out in paragraph 1 of Article 4 of that Regulation; and in this definition “the 2016 Regulation” means Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016(c) on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery;”;
- (d) for the definition of “recreational craft”, substitute—
- ““recreational craft” has the meaning given by Article 3(2) of Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013(d) on recreational craft and personal watercraft;”;
- (e) for the definition of “renewable source”, substitute—
- ““renewable source”, in relation to energy, means any of the following non-fossil sources of energy, namely wind, the sun, aerothermal sources, geothermal sources, water (including hydrothermal sources, waves and tides) and biomass (including landfill gas, sewage treatment plant gas and biogases), where—
- (a) “aerothermal” means energy stored in the form of heat in the ambient air;
- (b) “geothermal” means energy stored in the form of heat beneath the surface of solid earth; and
- (c) “hydrothermal” means energy stored in the form of heat in surface water;”;
- (f) after the definition of “renewable source”, insert—
- ““tractor” has the meaning given by Article 3(8) of Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013(e) on the approval and market surveillance of agricultural and forestry vehicles.”.

(a) Section 132 of the 2004 Act was amended by section 78 of, and Schedule 7, to the Climate Change Act 2008 and by S.I. 2012/2723. There are other amendments which are not relevant to these Regulations.

(b) OJ L 252 16.9.2016 p.118.

(c) OJ L 252 16.9.2016 p.53.

(d) OJ L 354 28.12.2013 p.90.

(e) OJ L 60 2.3.2013 p.1. There are amendments to the EU instrument which are not relevant to these Regulations.

PART 3

RENEWABLE TRANSPORT FUEL AMENDMENTS

Introductory

5. The Renewable Transport Fuel Obligations Order 2007^(a) is amended in accordance with this Part.

Insertion of article 1A

6. After article 1 (citation and commencement), insert—

“Review

1A.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in this Order; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 15th April 2023.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015^(b) requires that a review carried out under this article must, so far as is reasonable, have regard to how the directive is implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this article must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this article, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).”.

Amendment of article 2

7.—(1) Article 2 (interpretation)(c) is amended as follows.

(2) In paragraph (1)—

- (a) omit the definition of “the 2011 Order”;
- (b) omit the definition of “buy-out fund”;
- (c) omit the definition of “the cross compliance requirements”;
- (d) omit the definition of “the directive”;
- (e) for the definition of “relevant feedstock”, substitute—
 - ““relevant feedstock” means—
 - (a) processing residues of biological origin;

(a) S.I. 2007/3072.

(b) Section 30 of the Small Business, Enterprise and Employment Act 2015 (c.26) was amended by section 19 of the Enterprise Act 2016 (c.12).

(c) Article 2 was amended by S.I. 2011/493, 2011/2937, 2013/816 and 2015/534.

- (b) products of biological origin, including relevant crops and dedicated energy crops;
- (c) renewable sources other than biomass used to produce RFNBO;
- (d) residues from agriculture, aquaculture, fisheries or forestry;
- (e) wastes of biological origin;”;
- (f) omit the definition of “sustainable wastes”;
- (g) in the appropriate places, insert—
 - ““the 2012 Regulations” means the Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012(a);”;
 - ““assessment time” means—
 - (a) in relation to renewable aviation turbine fuel that is attributable to relevant feedstocks, the time at which a refinery certificate of quality is issued which certifies, in accordance with standard 1530 (as revised or re-issued from time to time)(b) of the Energy Institute(c) and the Joint Inspection Group(d), that the fuel meets one of the standards set out in article 3(1B)(d);
 - (b) in relation to renewable hydrogen that is attributable to relevant feedstocks, the time at which is it sold to a retail customer;
 - (c) in relation to gaseous renewable transport fuel that is attributable to relevant feedstocks and which is to be used only in non-road transports, the time at which the fuel is set aside for such use;
 - (d) in relation to fuel, other than fossil fuel for use in aircraft, which does not fall within sub-paragraph (a), (b) or (c), the time at which the requirement under the 1979 Act to pay the duty of excise with which that fuel is chargeable took effect;”;
 - ““dedicated energy crops” means crops which—
 - (a) consist of—
 - (i) non-food cellulosic material; or
 - (ii) ligno-cellulosic material, except saw logs and veneer logs;
 - (b) are grown for the purpose of being used as fuel or energy;
 - (c) are not a residue (including processing residues and residues from agriculture, aquaculture, fisheries or forestry) or a waste; and
 - (d) would not normally be used for food or feed;”;
 - ““development fuel RTF certificate” means an RTF certificate(e) which derives from renewable transport fuel made from development fuel and which is specified as such in accordance with article 17(2A);”;
 - ““development fuel target” has the meaning given in article 4(5);”;
 - ““the directive” means Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009(f) on the promotion of the use of energy from renewable sources, etc., and a reference in this Order to Annex V to the directive is a reference to that Annex as amended from time to time;”;
 - ““GHG credit” has the meaning given in the 2012 Regulations;”;

(a) S.I. 2012/3030.

(b) A copy of the relevant standard can be obtained from Portland Customer Services, Commerce Way, Whitehall Industrial Estate, Colchester, Essex CO2 8HP (email: sales@portland-services.com) or SAI Global - ILI Publishing, Index House, Ascot, Berkshire, SL5 7EU (website: www.ili.co.uk or www.i2isolutions.net; email: standards@saiglobal.com).

(c) The Energy Institute, 61 New Cavendish Street, London W1G 7AR; https://www.energyinst.org/home.

(d) Joint Inspection Group Limited, 9 Caxton House, Broad Street, Cambourne, Cambridgeshire, CB23 6JN (http://www.jigonline.com/).

(e) See section 127(1) of the 2004 Act for the meaning of “RTF certificates”.

(f) The directive was amended by Council Directive 2013/18/EU of 13 May 2013 (OJ L 158 10.6.2013 p.230) and Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 September 2015 (OJ L 239 15.9.2015 p.1).

““issue of an additional RTF certificate” means the issue of an additional RTF certificate for each whole litre of fuel under article 17A;”;

““ligno-cellulosic material” means material composed of lignin, cellulose and hemicellulose, such as biomass sourced from forests, woody energy crops and forest-based industries’ residues and wastes;”;

““main obligation” has the meaning given in article 4(6);”;

““non-food cellulosic material” means feedstocks which are mainly composed of cellulose and hemicellulose, having a lower lignin content than ligno-cellulosic material, including (among other things)—

- (a) food and feed crop residues, such as straw, stover, husks and shells;
- (b) grassy energy crops with a low starch content, such as ryegrass, switchgrass, miscanthus, giant cane and cover crops before and after main crops;
- (c) industrial residues, including from food and feed crops after vegetal oils, sugars, starches and protein have been extracted; and
- (d) material from biowaste;”;

““non-road transports” means—

- (a) non-road mobile machinery;
- (b) inland waterway vessels which do not normally operate at sea;
- (c) recreational craft which do not normally operate at sea;
- (d) tractors;”;

““processing residue”, in relation to a production process, means a substance—

- (a) that is not the end product sought directly from the process;
- (b) the production of which is not a primary aim of the process; and
- (c) in respect of which the process has not been deliberately modified in order to produce it;”;

““relevant crops” means starch-rich crops, sugars, oil crops and main crops, where “starch-rich crops” include—

- (a) cereals (regardless of whether only the grains are used or the whole plant);
- (b) tubers and root crops, including potatoes, Jerusalem artichokes, sweet potatoes, cassava and yams; and
- (c) corm crops, including taro and cocoyam,

but feedstocks listed in Annex IX of the directive are not relevant crops;”;

““relevant crop RTF certificate” means an RTF certificate which derives from renewable transport fuel made from relevant crops and which is specified as such in accordance with article 17(2A);”;

““residues from agriculture, aquaculture, fisheries or forestry” means residues that are directly generated by agriculture, aquaculture, fisheries or forestry, but not including residues from related industries or processing;”;

““type of RTF certificate” means the specification as to the type of renewable transport fuel to which an RTF certificate relates in accordance with article 17(2A);”;

““waste” means any substance or object which the holder discards, or intends or is required to discard, but does not include any substance or object that has been intentionally modified or contaminated for the purpose of transforming it into a waste;”.

(3) In paragraph (2), for sub-paragraphs (a) and (b) substitute—

- “(a) processing residue;
- (b) products;
- (c) residues from agriculture, aquaculture, fisheries or forestry; or

- (d) waste.”.
- (4) In paragraph (3), for “1827(M)” substitute “1837(M) Amendment 2”(a).
- (5) After paragraph (3), insert—
 - “(4) For the purposes of this Order—
 - (a) references to a type of fuel as being “renewable” are references to fuel of that type which meets the definition of “renewable transport fuel”(b);
 - (b) references to the “renewable transport fuel obligation” include the development fuel target and the main obligation.”.

Amendment of article 3

- 8.—(1) Article 3 (definitions of fuels and fuel products)(c) is amended as follows.
- (2) After paragraph (1), insert—
 - “(1A) “Aviation gasoline” means “aviation gasoline” within the meaning given in section 1(3D) of the 1979 Act(d) which meets one of the following standards—
 - (a) ASTM International standard D910 (as revised or re-issued from time to time)(e);
 - (b) Ministry of Defence standard 91-90 (as revised or re-issued from time to time)(f); or
 - (c) a standard that is equivalent to either of the standards mentioned in sub-paragraphs (a) and (b).
 - (1B) “Aviation turbine fuel” means fuel—
 - (a) which consists of heavy oil;
 - (b) of which more than 50 per cent by volume distils at a temperature of 240 degrees centigrade;
 - (c) which is to be used as fuel for aircraft; and
 - (d) which meets one of the following standards—
 - (i) ASTM International standard D1655 (as revised or re-issued from time to time)(g);
 - (ii) Ministry of Defence standard 91-91 (as revised or re-issued from time to time)(h); or
 - (iii) a standard that is equivalent to either of the standards mentioned in paragraphs (i) and (ii).”.
- (3) After paragraph (2B), insert—
 - “(2C) “Development fuel” means a renewable transport fuel which consists of—
 - (a) biofuel which—
 - (i) is eligible for the issue of an additional RTF certificate under article 17A(3) to (5);

(a) A copy of the relevant Merchant Shipping Notice can be obtained from Navigational Safety Branch, Maritime and Coastguard Agency, Bay 2/25, Spring Place, 105 Commercial Road, Southampton SO15 1EG (email: navigationsafety@mcga.gov.uk). It can also be obtained online: <https://www.gov.uk/government/publications/msn-1837-m-amendment-2-categorisation-of-waters>.

(b) See section 132(1) of the 2004 Act for the definition of “renewable transport fuel”.

(c) Article 3 was amended by S.I. 2009/843, 2011/2937 and 2013/816.

(d) Section 1(3D) of the 1979 Act was inserted by section 16 of, and Schedule 6 to, the Finance Act 2008 (c.9).

(e) A copy of the relevant ASTM standard can be obtained from ASTM Headquarters, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959, USA (<https://www.astm.org/CONTACT/index.html>).

(f) A copy of the relevant Ministry of Defence standard can be obtained from UK Defence Standardisation, Kentigern House, Room 1138, 65 Brown Street, Glasgow G2 8EX (email: enquiries@dstan.mod.uk).

(g) See previous footnote for details of where to obtain a copy of the relevant ASTM standard.

(h) See previous footnote for details of where to obtain a copy of the relevant Ministry of Defence standard.

- (ii) is not made from segregated oils or segregated fats, including used cooking oils and tallow; and
- (iii) consists of a type of renewable transport fuel specified in paragraph (2D); or
- (b) RFNBO which consists of a type of renewable transport fuel specified in paragraph (2D).

(2D) For the purposes of paragraph (2C), the specified types of renewable transport fuel are—

- (a) aviation gasoline;
- (b) aviation turbine fuel;
- (c) hydrogen;
- (d) substitute natural gas;
- (e) fuel that can be blended and have a renewable fraction at rates of at least 25% by volume in the final blend, whilst still meeting the applicable fuel standards listed in BS EN: 228 (for petrol, as revised or re-issued from time to time) or BS EN: 590 (for diesel, as revised or re-issued from time to time)(a).”.

(4) In paragraph (5B), for sub-paragraph (a), substitute—

“(a) which is for use in non-road transports; and”.

(5) For paragraph (10), substitute—

“(10) “Relevant fuel” means hydrocarbon oil or renewable hydrogen which—

- (a) is or was owned by the supplier at the assessment time;
- (b) is for use in aircraft, non-road transports or road vehicles; and
- (c) falls within one of the following categories—
 - (i) petrol;
 - (ii) diesel;
 - (iii) gas oil;
 - (iv) renewable transport fuel,

but does not include detergents, cetane improvers, lubricity improvers, viscosity improvers, oxidation inhibitors, gum inhibitors, anti-corrosive preparations and similar substances intended for use as fuel additives.”.

(6) After paragraph (10A), insert—

“(10B) “RFNBO” means liquid or gaseous renewable fuel of non-biological origin—

- (a) which is used in transport;
- (b) the energy content of which comes from renewable sources other than biomass; and
- (c) which is not made from—
 - (i) biofuels; or
 - (ii) a carbon source that has been generated for the purpose of converting it into a fuel for use in transport.

(10C) “Substitute natural gas” means renewable methane produced from the product of gasification or pyrolysis, where—

- (a) “gasification” means the substoichiometric oxidation or steam reformation of a substance to produce a gaseous mixture containing at least two of the following—
 - (i) oxides of carbon;

(a) Copies of the relevant BS EN standards can be obtained from: BSI, 389 Chiswick High Road, London W4 4AL (email: cservices@bsigroup.com).

- (ii) methane;
- (iii) hydrogen;
- (b) “pyrolysis” means the thermal degradation of a substance in the absence of an oxidising agent (other than that which forms part of the substance itself) to produce char and at least one or both of gas and liquid.”.

Amendment of article 4

9.—(1) Article 4 (the renewable transport fuel obligation)(a) is amended as follows.

(2) In paragraph (1)—

(a) for sub-paragraph (a), substitute—

“(a) owns relevant fuel; and”;

(b) in sub-paragraph (b), for “oil” substitute “fuel”.

(3) In paragraph (2), for “oil” substitute “fuel”.

(4) In paragraph (3), for sub-paragraphs (a) and (b) substitute—

“(a) a “specified period” means—

- (i) a period beginning on 15th April in any year before 2018 and ending on the following 14th April;
- (ii) the period beginning on 15th April 2018 and ending on 31st December 2018;
- (iii) a period beginning on 1st January in any year after 2018 and ending on the following 31st December,

and any such period is referred to in this Order as an “obligation period”;

(b) the “specified date” means—

- (i) in respect of any obligation period which ends on 14th April in a year, 29th November of that year (or the next working day after 29th November if 29th November is not a working day);
- (ii) in respect of an obligation period which ends on 31st December in a year, 15th September of the following year (or the next working day after 15th September if 15th September is not a working day); and”.

(5) For paragraphs (4) to (6), substitute—

“(4) For the purposes of section 124(2) of the 2004 Act and this Order, the “specified amount” of renewable transport fuel for an obligated supplier in an obligation period is the sum of—

- (a) the development fuel target for that supplier for that period; and
- (b) the main obligation for that supplier for that period.

(5) The supplier’s “development fuel target” for an obligation period within column 1 of the table in paragraph (6C) is the amount of development fuel equal to the percentage of the supplier’s obligated amount for that period set out in the corresponding entry in column 2 of the table.

(6) The supplier’s “main obligation” for an obligation period within column 1 of the table in paragraph (6C) is the amount of renewable transport fuel equal to the percentage of the supplier’s obligated amount for that period set out in the corresponding entry in column 3 of the table.

(6A) Development fuel supplied by the supplier during an obligation period which exceeds the amount of that supplier’s development fuel target for that period may count towards the supplier’s main obligation for that period.

(a) Article 4 was amended by S.I. 2011/2937, 2013/816 and 2015/534.

(6B) The obligated amount for an obligation period is determined as follows—

- (a) calculate the notional amount of relevant fuel which the supplier has supplied at, or for delivery to, places in the United Kingdom during the obligation period (see paragraph (7)); and
- (b) if the notional amount is less than 10 million litres, deduct the first 450,000 litres of that amount.

(6C) The table is as follows—

<i>(1)</i> <i>Obligation period or periods</i>	<i>(2)</i> <i>% which, when applied to the obligated amount, gives the development fuel target</i>	<i>(3)</i> <i>% which, when applied to the obligated amount, gives the main obligation</i>
15th April 2017 to 14th April 2018	No development fuel target	4.987%
15th April to 31st December 2018	No development fuel target	7.817%
1st January to 31st December 2019	0.109%	9.180%
1st January to 31st December 2020	0.166%	10.637%
1st January to 31st December 2021	0.556%	10.679%
1st January to 31st December 2022	0.893%	10.714%
1st January to 31st December 2023	1.119%	10.738%
1st January to 31st December 2024	1.345%	10.762%
1st January to 31st December 2025	1.573%	10.787%
1st January to 31st December 2026	1.802%	10.811%
1st January to 31st December 2027	2.032%	10.835%
1st January to 31st December 2028	2.262%	10.860%
1st January to 31st December 2029	2.494%	10.884%
1st January to 31st December 2030	2.727%	10.909%
1st January to 31st December 2031	2.961%	10.934%
1st January to 31st December 2032, and subsequent obligation periods	3.196%	10.959%”.

(6) For paragraph (7), substitute—

“(7) For the purposes of paragraph (6B), the “notional amount” of relevant fuel which the supplier has supplied at, or for delivery to, places in the United Kingdom during an obligation period is determined in accordance with the following formula—

$$FN = HA - \left(E \times R \times \frac{S}{T} \right)$$

where—

FN is the notional amount of relevant fuel;

HA is the total volume of relevant fuel which was, during that period—

(a) owned by the supplier; and

(b) supplied at, or for delivery to, places in the United Kingdom;

E is the volume of eligible fuel;

R is the percentage of E which is attributable to relevant feedstock;

S is the volume of E which meets the sustainability criteria;

T is the volume of E which is attributable to relevant feedstock.”.

(7) In paragraph (8)—

(a) in each place where the words occur, for “eligible oil” substitute “eligible fuel”;

(b) in each place where the reference occurs, for “S” substitute “R”;

(c) in sub-paragraph (a)—

(i) for paragraph (ii), substitute—

“(ii) is for use in aircraft, non-road transports or road vehicles; and”;

(ii) omit paragraph (iii);

(iii) for paragraph (iv), substitute—

“(iv) was owned by the supplier at the assessment time;”;

(d) in sub-paragraph (b), omit “bio-”;

(e) in sub-paragraph (c), omit “bio-”;

(f) in sub-paragraph (d), omit the “and” at the end;

(g) in sub-paragraph (e), at the end, insert “; and”;

(h) after sub-paragraph (e), insert—

“(f) to the extent that the eligible fuel consists of RFNBO—

(i) where the process energy used to produce the RFNBO is electricity that is entirely taken from the national electricity grid of the country in which the RFNBO is or was produced, R is deemed to be the annual average percentage of electricity for that country’s national grid which is produced from renewable sources other than biomass; or

(ii) if the Administrator considers that it is not appropriate to use the methodology in paragraph (i) to determine the value for R, R is to be determined in accordance with such other methodology as the Administrator may consider appropriate in a particular case,

in respect of that portion of the eligible fuel.”.

(8) For paragraph (9), substitute—

“(9) For the purposes of this article—

(a) except where sub-paragraph (b), (c) or (d) applies, one kilogram of gaseous relevant fuel must be treated as equivalent to one litre of liquid relevant fuel;

(b) where the gaseous relevant fuel is renewable methane, including substitute natural gas, one kilogram of that fuel must be treated as equivalent to 1.90 litres of liquid relevant fuel;

(c) where the gaseous relevant fuel is renewable butane, renewable propane or a combination of renewable butane and renewable propane, one kilogram of that fuel must be treated as equivalent to 1.75 litres of liquid relevant fuel;

(d) where the gaseous relevant fuel is renewable hydrogen, one kilogram of that fuel must be treated as equivalent to 4.58 litres of liquid relevant fuel.”.

Revocation of article 4A

10. Article 4A (duty of Secretary of State in respect of the directive)(a) is revoked.

Amendment of article 5

11.—(1) Article 5 (determinations of amounts of transport fuel)(b) is amended as follows.

(2) In paragraph (1)—

(a) for “time when the requirement to pay the duty of excise with which the fuel is chargeable takes effect” substitute “assessment time”;

(b) for sub-paragraph (b), substitute—

“(b) that such of that fuel as is petrol, diesel, low sulphur gas oil or renewable transport fuel is, or was, relevant fuel.”.

(3) In paragraph (1B), for “relevant hydrocarbon oil” substitute “relevant fuel”.

(4) Omit paragraph (2).

(5) In paragraph (2A)—

(a) for “which becomes chargeable to a duty of excise on or after 15th April 2013” substitute “at its assessment time”;

(b) for sub-paragraph (a), substitute—

“(a) it is for use in aircraft, non-road transports or road vehicles; and”;

(c) in sub-paragraph (b), omit the “and” at the end;

(d) omit sub-paragraph (c).

(6) Omit paragraph (4).

(7) For paragraph (4A), substitute—

“(4A) For the purpose of discharging a person’s renewable fuel transport obligation or of issuing RTF certificates, the volume of an amount of renewable transport fuel is deemed to be the notional volume determined in accordance with the following formula—

$$RN = RA \times RF \times \left(\frac{D + S}{T} \right)$$

where—

RN is the notional volume;

RA is the total volume of renewable transport fuel which was, during the obligation period—

(a) owned by the supplier at the assessment time; and

(b) supplied at, or for delivery to, places in the United Kingdom;

RF is the percentage of RA which is attributable to relevant feedstock;

D is the volume of RA which is eligible for the issue of an additional RTF certificate (see article 17A);

S is the volume of RA which meets the sustainability criteria;

T is the volume of RA which is attributable to relevant feedstock.”.

(8) In paragraph (4B)—

(a) in each place where the reference occurs, for “S” substitute “RF”;

(b) in sub-paragraph (a), omit “bio-”;

(a) Article 4A was inserted by S.I. 2011/2937.

(b) Article 5 was amended by S.I. 2011/2937, 2013/816 and 2015/534.

- (c) in sub-paragraph (b), omit “bio-”;
- (d) in sub-paragraph (c), omit the “and” at the end;
- (e) in sub-paragraph (d), insert “and” at the end;
- (f) after sub-paragraph (d), insert—
 - “(e) to the extent that the renewable transport fuel consists of RFNBO—
 - (i) where the process energy used to produce the RFNBO is electricity that is entirely taken from the national electricity grid of the country in which the RFNBO is or was produced, RF is deemed to be the annual average percentage of electricity for that country’s national grid which is produced from renewable sources other than biomass; or
 - (ii) if the Administrator considers that it is not appropriate to use the methodology in paragraph (i) to determine the value for RF, RF is to be determined in accordance with such other methodology as the Administrator may consider appropriate in a particular case,

in respect of that portion of the renewable transport fuel.”.

(9) For paragraph (5), substitute—

“(5) For the purposes of this article—

- (a) except where sub-paragraph (b), (c) or (d) applies, one kilogram of gaseous renewable transport fuel must be treated as equivalent to one litre of liquid renewable transport fuel;
- (b) where the gaseous renewable transport fuel is renewable methane, including substitute natural gas, one kilogram of that fuel must be treated as equivalent to 1.90 litres of liquid renewable transport fuel;
- (c) where the gaseous renewable transport fuel is renewable butane, renewable propane or a combination of renewable butane and renewable propane, one kilogram of that fuel must be treated as equivalent to 1.75 litres of liquid renewable transport fuel;
- (d) where the gaseous renewable transport fuel is renewable hydrogen, one kilogram of that fuel must be treated as equivalent to 4.58 litres of liquid renewable transport fuel.”.

Amendment of article 9

12. In article 9 (closures of accounts), in paragraph (2)(b) for “any” substitute “all”.

Amendment of article 12

13.—(1) Article 12 (duty to require information from obligated suppliers)(a) is amended as follows.

(2) In paragraph (1)(a)—

- (a) in paragraph (i), for “relevant hydrocarbon oil” substitute “relevant fuel”;
- (b) in paragraph (iii), for “relevant hydrocarbon oil” substitute “relevant fuel”;
- (c) in paragraph (iv), for “relevant hydrocarbon oil” substitute “relevant fuel (including, where applicable, the type of development fuel)”;
- (d) for paragraph (vi), substitute—
 - “(vi) the volume of any renewable transport fuel supplied which—
 - (aa) meets the sustainability criteria;

(a) Article 12 was amended by S.I. 2011/2937.

- (bb) is eligible for the issue of an additional RTF certificate;”.
- (3) In paragraph (1)(b), at the end, insert “; and”.
- (4) After paragraph (1)(b), insert—
 - “(c) in the case of development fuel, evidence of the fact that the fuel meets the definition of development fuel.”.
- (5) In paragraph (5)—
 - (a) before “has provided” insert “is to provide or”;
 - (b) at the end, insert “(also see paragraph (8))”.
- (6) After paragraph (7), insert—
 - “(8) The power of the Administrator to require a transport fuel supplier to produce evidence under paragraph (5) includes the power to require the supplier to produce a verifier’s assurance report.”.

Amendment of article 15

14.—(1) Article 15 (other powers and duties conferred and imposed on the Administrator)(a) is amended as follows.

- (2) Omit paragraph (1)(i).
- (3) After paragraph (1)(j), insert—
 - “(k) to consider applications for RTF certificates also as applications for GHG credits under the 2012 Regulations;
 - (l) to award GHG credits in accordance with the 2012 Regulations at the same time as the award of any RTF certificates under this Order.”.
- (4) In paragraph (3)(a), for “relevant hydrocarbon oil” substitute “relevant fuel”.

Amendment of article 16

15.—(1) Article 16 (application for RTF certificates)(b) is amended as follows.

- (2) In paragraph (2)(a)(i), omit “and (d)”.
- (3) In paragraph (2)(a)(ii)—
 - (a) after “the renewable transport fuel”, in the first place where the words occur, insert “, or a chemical precursor to it,”;
 - (b) after “EEA state” insert “or the UK”.
- (4) In paragraph (3)—
 - (a) in sub-paragraph (b), after “12(1)(a)” insert “and (c)”;
 - (b) in sub-paragraph (ea)—
 - (i) after “the renewable transport fuel”, in the first place where the words occur, insert “, or a chemical precursor to it,”;
 - (ii) after “EEA state” insert “or the UK”;
 - (c) for sub-paragraph (g), substitute—
 - “(g) the supplier makes the application for the RTF certificate—
 - (i) in respect of an obligation period which ends on 14th April in a year, by 12th August of that year (or the next working day after 12th August, if 12th August is not a working day);

(a) Article 15 was amended by S.I. 2011/493 and 2011/2937.

(b) Article 16 was amended by S.I. 2011/2937 and 2015/534.

- (ii) in respect of an obligation period which ends on 31st December in a year, by 12th May of the following year (or the next working day after 12th May, if 12th May is not a working day),
or such later date as the Administrator may notify to the supplier for the purposes of this sub-paragraph; and
- (h) the Administrator is satisfied that, at the assessment time, the supplier owns or owned the fuel in respect of which the application for an RTF certificate is made.”.

Amendment of article 16A

16.—(1) Article 16A (verifier’s assurance procedures and reports)(a) is amended as follows.

(2) In paragraph (1), at the beginning, for “A” substitute “Subject to paragraph (3), a”.

(3) After paragraph (2), insert—

“(3) If the Administrator requires a transport fuel supplier to produce a verifier’s assurance report under article 12(5) (also see article 12(8)), then paragraph (1) has effect as if for “limited assurance engagements”, in both places where the words occur, there were substituted “limited assurance engagements or, if the Administrator requires, reasonable assurance engagements”.”.

Amendment of article 16B

17. In article 16B (annual verifier’s report on additional sustainability information)(b), for paragraph (3) substitute—

“(3) The report referred to in paragraph (1) must be submitted to the Administrator—

- (a) in respect of an obligation period which ends on 14th April in a year, by 12th August of that year (or the next working day after 12th August, if 12th August is not a working day);
- (b) in respect of an obligation period which ends on 31st December in a year, by 12th May of the following year (or the next working day after 12th May, if 12th May is not a working day),
or such later date as the Administrator may notify to the supplier for the purposes of this paragraph.”.

Amendment of article 17

18.—(1) Article 17 (issue of RTF certificates)(c) is amended as follows.

(2) For paragraph (1)(a), substitute—

“(a) is for use in aircraft, non-road transports or road vehicles.”.

(3) In paragraph (1)(c), for “time when the requirement to pay the duty of excise with which the fuel is chargeable takes effect” substitute “assessment time”.

(4) After paragraph (2), insert—

“(2A) Each RTF certificate must specify which of the following types of renewable transport fuel the certificate relates to—

- (a) renewable transport fuel derived from relevant crops;
- (b) development fuel;
- (c) renewable transport fuel of a type not falling within sub-paragraph (a) or (b).”.

(5) In paragraph (3)—

(a) Article 16A was inserted by S.I. 2011/2937.
(b) Article 16B was inserted by S.I. 2011/2937.
(c) Article 17 was amended by S.I. 2011/2937 and 2013/816.

- (a) in sub-paragraph (a), omit the “and” at the end;
- (b) omit sub-paragraph (b).

Insertion of article 17A

19. After article 17, insert—

“Issue of an additional RTF certificate

17A.—(1) This article applies if—

- (a) a transport fuel supplier applies under this Order for an RTF certificate in respect of—
 - (i) RFNBO;
 - (ii) renewable transport fuel which is made from dedicated energy crops; or
 - (iii) renewable transport fuel which is made from one of the following—
 - (aa) processing residue;
 - (bb) residues from agriculture, aquaculture, fisheries or forestry;
 - (cc) waste; and
- (b) the fuel described in sub-paragraph (a) qualifies under article 17 for the issue of an RTF certificate for each whole litre of that fuel.

(2) If this article applies in relation to a fuel of a type falling within paragraph (1)(a)(i) or (ii), the Administrator must issue to the supplier an additional RTF certificate in respect of each whole litre of that fuel.

(3) If this article applies in relation to a fuel of a type falling within paragraph (1)(a)(iii), the Administrator must decide whether the fuel produces one or more of the effects described in section 126(4) of the 2004 Act.

(4) If the Administrator decides under paragraph (3) that the fuel produces one or more of those effects, the Administrator must then decide whether, based on that effect (or those effects), to issue to the supplier an additional RTF certificate in respect of each whole litre of that fuel.

(5) When making a decision under paragraph (4), the Administrator must consider any alternative uses and alternative disposal outcomes which could have been adopted or used for the relevant residue or waste.”.

Substitution of article 19

20. For article 19 (use of an RTF certificate in a later obligation period)(a), substitute—

“Use of RTF certificates in later obligation periods

19.—(1) A development fuel RTF certificate may count in relation to the discharge of no more than the following percentage of a transport fuel supplier’s development fuel target in the next obligation period—

- (a) if the obligation period stated in the certificate is that beginning on 15th April 2018, 100%;
- (b) if the obligation period stated in the certificate is that beginning on 1st January 2019, 0%;
- (c) if the obligation period stated in the certificate is any other obligation period beginning after 31st December 2019, 25%.

(a) Article 19 was substituted by S.I. 2011/2937.

(2) Subject to paragraph (3), any RTF certificate may count in relation to the discharge of no more than the following percentage of a transport fuel supplier's main obligation in the next obligation period—

- (a) if the obligation period stated in the certificate is that beginning on 1st January 2019, 0%;
- (b) if the obligation period stated in the certificate is any other obligation period beginning on or after 15th April 2017, 25%.

(3) The maximum amount of relevant crop RTF certificates which may count in relation to the discharge of a supplier's main obligation in the next obligation period is the number of such certificates which corresponds with 25% of the amount calculated under article 21A for that period.

(4) If, as a result of this article, an RTF certificate “may count” in relation to the discharge of any part of a transport fuel supplier's renewal transport fuel obligation in the next obligation period, the production of the certificate by the supplier to the Administrator counts as evidence that the amount of renewable transport fuel stated in the certificate was supplied by the supplier at, or for delivery to, places in the United Kingdom during that period.

(5) For the purposes of this article, any RTF certificate issued in relation to renewable transport fuel supplied in the obligation period beginning on 1st January 2019 is to be treated as if it were issued in relation to such fuel supplied in the obligation period beginning on 1st January 2020 (and, accordingly, as if the obligation period stated in the certificate were that beginning on 1st January 2020).

(6) In this article “next obligation period”, in relation to an RTF certificate, means the obligation period immediately following the obligation period stated in the RTF certificate.”.

Amendment of article 20

21.—(1) Article 20 (revocation of an RTF certificate)(a) is amended as follows.

(2) In paragraph (1)(c), for “12(1)(a)” substitute “12(1)”.

(3) For paragraph (4)(c)(ii), substitute—

“(ii) later than the revocation date in paragraph (4A).”.

(4) After paragraph (4), insert—

“(4A) For the purposes of paragraph (4), the “revocation date” is—

- (a) in respect of an obligation period which ends on 14th April in a year, 16th October of that year (or the next working day after 16th October, if 16th October is not a working day);
- (b) in respect of an obligation period which ends on 31st December in a year, 16th July of the following year (or the next working day after 16th July, if 16th July is not a working day).”.

(5) In paragraph (5), for “the 23rd October immediately following the obligation period during which the RTF certificate was issued”, substitute “the applicable date in paragraph (5A)”.

(6) After paragraph (5), insert—

“(5A) For the purposes of paragraph (5), the “applicable date” is—

- (a) in respect of an obligation period which ends on 14th April in a year, 23rd October of that year (or the next working day after 23rd October, if 23rd October is not a working day);

(a) Article 20 was amended by S.I. 2011/493 and 2011/2937.

- (b) in respect of an obligation period which ends on 31st December in a year, 23rd July of the following year (or the next working day after 23rd July, if 23rd July is not a working day).”.

(7) In paragraph (7)(a), for “the 6th November” to the end substitute “the notice giving date in paragraph (7A)”.

(8) After paragraph (7), insert—

“(7A) For the purposes of paragraph (7)(a), the “notice giving date” is—

- (a) in respect of an obligation period which ends on 14th April in a year, 6th November of that year (or the next working day after 6th November, if 6th November is not a working day);
- (b) in respect of an obligation period which ends on 31st December in a year, 6th August of the following year (or the next working day after 6th August, if 6th August is not a working day).”.

(9) In paragraph (8)(b), for “the 15th November” to the end substitute “the reconsideration date in paragraph (8A)”.

(10) After paragraph (8), insert—

“(8A) For the purposes of paragraph (8)(b), the “reconsideration date” is—

- (a) in respect of an obligation period which ends on 14th April in a year, 15th November of that year (or the next working day after 15th November, if 15th November is not a working day);
- (b) in respect of an obligation period which ends on 31st December in a year, 15th August of the following year (or the next working day after 15th August, if 15th August is not a working day).”.

Amendment of article 21

22.—(1) Article 21 (payments)(a) is amended as follows.

(2) In paragraph (1)(b)—

- (a) for “RTF certificates” substitute “each type of RTF certificate”; and
- (b) after “RTF account”, insert “, and the number of each type of RTF certificate”.

(3) After paragraph (1), insert—

“(1A) For the purposes of paragraph (1)(b), the maximum number of relevant crop RTF certificates which may be used to meet (or towards meeting) the supplier’s renewable transport fuel obligation may not exceed the number of such certificates which corresponds with the amount calculated under article 21A.”.

(4) In paragraph (3), after “the number” insert “and type”.

(5) In paragraph (6), after “a sum” insert “(the “buy-out amount”)”.

(6) For paragraph (7), substitute—

“(7) The “buy-out amount” is determined as follows—

Step 1

Calculate in litres—

- (a) the amount (“the DF only amount”) of development fuel in respect of which the supplier has produced development fuel RTF certificates as evidence (in accordance with paragraph (2)) in relation to the supplier’s development fuel target during the obligation period in question; and
- (b) the amount (“the any RTF amount”) of renewable transport fuel of any type in respect of which the supplier has produced RTF certificates (of any type) as

(a) Article 21 was amended by S.I. 2011/2937.

evidence (in accordance with paragraph (2)) in relation to the supplier’s main obligation during the obligation period in question.

Step 2

Calculate the number of litres (if any) by which—

- (a) the DF only amount falls short of the amount needed to meet the supplier’s development fuel target (“the development fuel target shortfall”); and
- (b) the any RTF amount falls short of the amount needed to meet the supplier’s main obligation (“the main obligation shortfall”).

Step 3

Multiply the development fuel target shortfall by £0.80 (“sum A”).

Step 4

Multiply the main obligation shortfall by £0.30 (“sum B”).

Step 5

Add sum A and sum B to produce the buy-out amount.”.

(7) For paragraph (8), substitute—

“(8) For the purposes of section 128(1) of the 2004 Act and this Order, the period within which the buy-out amount, calculated under paragraph (7), must be paid to the Administrator (the “buy-out payment period”) is—

- (a) in respect of an obligation period which ends on 14th April in a year, the period beginning on 15th April of that year and ending on 10th January in the following year;
- (b) in respect of an obligation period which ends on 31st December in a year, the period beginning on 1st January of the following year and ending on 26th October of that following year.”.

(8) For paragraph (9), substitute—

“(9) Where a supplier does not pay all of the buy-out amount to the Administrator before the end of the buy-out payment period—

- (a) the unpaid buy-out amount carries interest at the rate specified in paragraph (10), and is to be calculated in accordance with paragraph (11); and
- (b) the unpaid buy-out amount, and any unpaid interest, is a debt due from the supplier to the Administrator until it has been paid in full.”.

(9) In paragraph (10), for “11th January immediately following”, substitute “day immediately after the last day of”.

(10) In paragraph (11), for “11th January immediately following”, substitute “day immediately after the last day of”.

Insertion of article 21A

23. After article 21, insert—

“Calculation of maximum amount of relevant crop renewable transport fuel that may count towards meeting the obligation

21A. The maximum amount of renewable transport fuel derived from relevant crops which may be used to meet an obligated supplier’s renewable transport fuel obligation in an obligation period listed in column (1) of the following table is the amount of such fuel which equates to the percentage, listed in the corresponding entry in column (2), of the total volume of relevant fuel supplied by the supplier in relation to the obligation period—

<i>(1) Obligation period</i>	<i>(2) Percentage of total volume of relevant</i>
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	<i>fuel supplied</i>
<i>15th April to 31st December 2018</i>	<i>4.00%</i>
<i>1st January to 31st December 2019</i>	<i>4.00%</i>
<i>1st January to 31st December 2020</i>	<i>4.00%</i>
<i>1st January to 31st December 2021</i>	<i>3.83%</i>
<i>1st January to 31st December 2022</i>	<i>3.67%</i>
<i>1st January to 31st December 2023</i>	<i>3.50%</i>
<i>1st January to 31st December 2024</i>	<i>3.33%</i>
<i>1st January to 31st December 2025</i>	<i>3.17%</i>
<i>1st January to 31st December 2026</i>	<i>3.00%</i>
<i>1st January to 31st December 2027</i>	<i>2.83%</i>
<i>1st January to 31st December 2028</i>	<i>2.67%</i>
<i>1st January to 31st December 2029</i>	<i>2.50%</i>
<i>1st January to 31st December 2030</i>	<i>2.33%</i>
<i>1st January to 31st December 2031</i>	<i>2.17%</i>
<i>1st January to 31st December 2032, and subsequent obligation periods</i>	<i>2.00%”.</i>

Revocation and saving of article 22

24. Article 22 (re-cycling of buy-out payments)(a) is revoked, but continues to have effect in relation to any obligation period ending on or before 14th April 2017.

Amendment of article 23

25.—(1) Article 23 (civil penalties)(b) is amended as follows.

(2) In paragraph (5), for “the 16th November immediately following the obligation period in question” substitute “the applicable date in paragraph (5A)”.

(3) After paragraph (5), insert—

“(5A) For the purposes of paragraph (5), the “applicable date” is—

- (a) in respect of an obligation period which ends on 14th April in a year, 16th November of that year (or the next working day after 16th November, if 16th November is not a working day);
- (b) in respect of an obligation period which ends on 31st December in a year, 16th August of the following year (or the next working day after 16th August, if 16th August is not a working day).”.

(4) For paragraph (8), substitute—

“(8) For the purposes of paragraph (7)(a), the value of an RTF certificate is an amount equal to the amount that would be payable, in respect of the fuel to which the certificate relates, if that fuel were to fall within the development fuel target shortfall or the main obligation shortfall under article 21(7).”.

Revocation of Part 7

26. Part 7 (transitional provisions)(c) (articles 25 to 30) is revoked.

(a) Article 22 was amended by S.I. 2011/2937.

(b) Article 23 was amended by S.I. 2011/2937 and 2013/816.

(c) Part 7 was inserted by S.I. 2011/2937.

Amendment of the Schedule

27.—(1) The Schedule (sustainability criteria)(a) is amended as follows.

(2) In paragraph 1 (interpretation)—

- (a) omit the definition of “emissions from land-use change”;
- (b) omit the definition of “excluded land”;
- (c) omit the definition of “fossil element”;
- (d) omit the definition of “low emissions area”;
- (e) in the definition of “new chain of installations”, for “begins on or after 1st January 2017” substitute “began after 5th October 2015”;
- (f) in the definition of “old chain of installations”, for “23rd January 2008” substitute “or before 5th October 2015”;
- (g) omit the definition of “relevant biofuel production pathway”;
- (h) omit the definition of “relevant nature protection purposes”;
- (i) omit the definition of “renewable element”.

(3) In paragraph 2 (compliance with the sustainability criteria), for sub-paragraph (2) substitute—

“(2) An amount of renewable transport fuel which—

- (a) is produced from residues (including processing residues) which are not residues from agriculture, aquaculture, fisheries or forestry;
- (b) is produced from wastes which are not residues from agriculture, aquaculture, fisheries or forestry; or
- (c) consists of RFNBO;

meets the sustainability criteria if it meets the GHG emission saving threshold, whether or not it meets the land criteria.”.

(4) In paragraph 3 (greenhouse gas emission saving threshold)—

- (a) in sub-paragraph (2), after “volume of that fuel which”, omit “is”;
- (b) in sub-paragraph (2)(a)—
 - (i) before “attributable” insert “is”;
 - (ii) omit the “or” at the end;
- (c) for sub-paragraph (2)(b), substitute—

“(b) is produced from residues (including processing residues) which are not residues from agriculture, aquaculture, fisheries or forestry;

(c) is produced from wastes which are not residues from agriculture, aquaculture, fisheries or forestry; or

(d) consists of RFNBO.”;

(d) in sub-paragraph (3), after “renewable transport fuel” insert “of a type falling within sub-paragraph (2)”;

(e) after sub-paragraph (3), insert—

“(4) The GHG emission saving from the use of an amount of renewable transport fuel which consists of RFNBO is determined by reference to any guidance produced by the Administrator under article 15(2)(b).”.

(5) For paragraph 4, substitute—

(a) The Schedule was revoked by S.I. 2011/493 and re-inserted by S.I. 2011/2937.

“Minimum emission saving

4. For the purposes of this Schedule, the “minimum GHG emission saving”, in relation to renewable transport fuel supplied at, or for delivery to, places in the United Kingdom, is—

- (a) if the fuel is produced in an old chain of installations, 50%;
- (b) if the fuel is produced in a new chain of installations, 60%.”.

(6) In paragraph 5 (default value)—

(a) for sub-paragraph (2), substitute—

“(2) If a value is specified in parts A and B of Annex V to the directive for a default GHG emission saving for a relevant biofuel production pathway, the default value is equal to that specified value if the emissions from land-use change are equal to or less than zero, where—

“relevant biofuel production pathway” means the biofuel production pathway (set out in parts A and B of Annex V to the directive) applicable to the renewable transport fuel in question or, where that renewable transport fuel is partially renewable transport fuel, the biofuel production pathway applicable to the part of that renewable transport fuel which is derived from relevant feedstock; and

“emissions from land-use change” means the annualised emissions from land-use change attributable to the renewable transport fuel as calculated in accordance with paragraph 7 of part C of Annex V to the directive.”.

(b) omit sub-paragraph (3).

(7) In paragraph 6 (actual value), omit sub-paragraph (4).

(8) In paragraph 8(1) (land criteria categories), after paragraph (d) insert—

“(e) land which is natural highly biodiverse grassland, or which has been natural highly biodiverse grassland at any time after December 2007.”.

(9) In paragraph 9 (exceptions)—

(a) for sub-paragraph (1)(a), substitute—

“(a) the relevant land is not—

- (i) primary forest;
- (ii) land that is covered with, or saturated by, water permanently or for a significant part of the year;
- (iii) land spanning more than one hectare with trees higher than five metres and a canopy cover of more than 30%, or trees able to reach those thresholds in situ;”;

(b) after sub-paragraph (2)(c), insert—

“(d) land which is non-natural highly biodiverse grassland, or which has been non-natural highly biodiverse grassland at any time after December 2007.”;

(c) in sub-paragraph (3)(a), for “relevant nature protection purposes” substitute “purposes, if any, for which the relevant land was designated as a nature protection area”;

(d) in sub-paragraph (3)(b), omit the “and” at the end;

(e) in sub-paragraph (3)(c), insert “; and” at the end;

(f) after sub-paragraph (3)(c), insert—

“(d) in relation to land that is non-natural highly biodiverse grassland, or which has been non-natural highly biodiverse grassland at any time after December 2007, evidence that the harvesting of the raw material is necessary to preserve its status as grassland.”;

(g) after sub-paragraph (4), insert—

“(5) “Natural highly biodiverse grassland” and “non-natural highly biodiverse grassland” have the meanings given in Commission Regulation (EU) No 1307/2014 of 8 December

2014(a) on defining the criteria and geographic ranges of highly biodiverse grassland for the purposes of Article 7b(3)(c) of Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998(b) relating to the quality of petrol and diesel fuels, etc. (also see Article 17(3)(c) of the directive).”.

PART 4

GREENHOUSE GAS EMISSIONS AMENDMENTS

Introductory

28. The Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012(c) are amended in accordance with this Part.

Amendment of regulation 2

29.—(1) Regulation 2 (interpretation) is amended as follows.

(2) Omit the definition of “the directive”.

(3) Move the definition of “the RTFO Order” to the appropriate place in the alphabetical order.

(4) Omit the definition of “the Renewable Energy Directive”.

(5) In the appropriate places, insert—

““assessment time”—

(a) in relation to renewable aviation turbine fuel (within the meaning given in article 3 of the RTFO Order), has the meaning given in article 2 of the RTFO Order;

(b) in relation to renewable hydrogen or hydrogen from fossil fuel sources, means the time at which it is sold to a retail customer;

(c) in relation to gaseous renewable transport fuels which are to be used only in non-road transports, means the time at which the fuel is set aside for such use;

(d) in relation to electricity for use in electric road vehicles, means the time at which the electricity is given through an appropriate meter, and for this purpose “appropriate meter”—

(i) in relation to Great Britain, has the meaning given in paragraph 1 of Schedule 7 to the Electricity Act 1989(d);

(ii) in relation to Northern Ireland, has the meaning given in paragraph 2 of Schedule 7 to the Electricity (Northern Ireland) Order 1992(e);

(e) in relation to any energy product, other than fossil fuel for use in aircraft, which does not fall within sub-paragraph (a), (b) or (c), means the time at which the requirement under the Hydrocarbon Oil Duties Act 1979(f) to pay the duty of excise with which that fuel is chargeable took effect;”;

(a) OJ L 351 9.12.2014 p. 3.

(b) OJ L 350 28.12.1998 p.58. The directive has been amended by Commission Directive 2000/71/EC of 7 November 2000 (OJ L 287 14.11.2000 p.46); Directive 2003/17/EC of the European Parliament and of the Council of 3 March 2003 (OJ L 76 22.3.2003 p.10); Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003 (OJ L 284 31.10.2003 p.1); Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 (OJ L 140 5.6.2009 p.88); Commission Directive 2011/63/EU of 1 June 2011 (OJ L 147 2.6.2011 p.15); Commission Directive 2014/77/EU of 10 June 2014 (OJ L 170 11.6.2014 p.62); and Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 September 2015 (OJ L 239 15.9.2015 p.1).

(c) S.I. 2012/3030.

(d) 1989 c.29. There are amendments to Schedule 7 to the Electricity Act 1989, but these are not relevant to these Regulations.

(e) 1992 No. 231 (N.I. 1). There are amendments to Schedule 7 to the Electricity (Northern Ireland) Order 1992, but these are not relevant to these Regulations.

(f) 1979 c.5.

““CO_{2eq}” means carbon dioxide equivalent GHG emissions, and references to “gCO_{2eq}” and “kgCO_{2eq}” mean “grams of carbon dioxide equivalent GHG emissions” and “kilograms of carbon dioxide equivalent GHG emissions”, respectively;”;

““connected person” means, in relation to a supplier, a person who is connected with the supplier within the meaning of section 1122 of the Corporation Tax Act 2010(a);”;

““the directive” means Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels, etc., and a reference in these Regulations to Annex IV to the directive is a reference to that Annex as amended from time to time;”;

““electricity supplier”—

(a) in relation to Great Britain, has the meaning given in section 6 of the Electricity Act 1989(b);

(b) in relation to Northern Ireland, has the meaning given in Article 3 of the Electricity (Northern Ireland) Order 1992(c);”;

““emissions savings” has the meaning given in regulation 16A;”;

““GHG credit” means a document or record (which may be electronic)—

(a) issued to a supplier by the Administrator under Part 3A; and

(b) which certifies that the supplier to which it is issued has achieved the emissions savings stated in the credit (as to which, see regulation 16A) in relation to the reporting period concerned;”;

““GHG Directive” means Council Directive (EU) 2015/652 of 20 April 2015 laying down calculation methods and reporting requirements pursuant to the directive(d);”;

““GHG reduction obligation” has the meaning given in regulation 6B;”;

““GHGi”, in relation to an energy product or electricity, means the GHG emissions per unit of energy of the energy product or the electricity, measured in gCO_{2eq}/MJ;”;

““lower heating value” means—

(a) in relation to an energy product consisting of biofuel—

(i) where that biofuel is of a type listed in Annex III to the Renewable Energy Directive, the lower calorific value for the particular type of biofuel set out in Annex III to that Directive;

(ii) where that biofuel is not of a type listed in Annex III to the Renewable Energy Directive, subject to the Administrator’s approval, the lower heating value for that type of fuel set out in Part 2 of Appendix I to the European Commission’s Joint Research Centre Well-to-Tank Report, version 4, of July 2013(e) (“the JRC Well-to-Tank Report”);

(b) in relation to an energy product consisting of fuel of non-biological origin, the lower heating value for that type of fuel set out in Part 2 of Appendix I to the JRC Well-to-Tank Report;”;

““MJ” means megajoule, and references to “/MJ” mean “per megajoule”;”;

““non-road transports” has the meaning given in article 2 of the RTFO Order;”;

(a) 2010 c.4.

(b) There are amendments to section 6 of the Electricity Act 1989, but these are not relevant to these Regulations.

(c) Article 3 of the Electricity (Northern Ireland) Order 1992 was amended by the Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321). There are other amendments to Article 3 but these are not relevant to these Regulations.

(d) OJ L 107 25.4.2015 p.26.

(e) A copy of the report can be obtained from the Joint Research Centre, Via Enrico Fermi 2749, TP 230, 21027 Ispra (VA), Italy and a copy of Appendix I to the report can be viewed online at: https://iet.jrc.ec.europa.eu/about-jec/sites/iet.jrc.ec.europa.eu/about-jec/files/documents/report_2013/wtt_appendix_1_v4_july_2013_final.pdf.

“predominant conversion technology” means the technology or mechanism used to convert energy in an energy product or in electricity into energy for the purpose of generating propulsion or movement;”;

“the Renewable Energy Directive” means Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009(a) on the promotion of the use of energy from renewable sources, etc.;”;

“RTF certificate” has the meaning given in section 127 of the Energy Act 2004;”;

“SME” means a business which —

(a) employs fewer than 250 persons; and

(b) has—

(i) an annual turnover which does not exceed 50 million euros in value; or

(ii) an annual balance sheet total which does not exceed 43 million euros in value;”;

“UER” means a reduction in upstream emissions;”;

“unit GHGi threshold” has the meaning given in regulation 6B(2);”;

“upstream emissions”, in relation to an energy product, means all greenhouse gas emissions occurring prior to the raw material entering a refinery or a processing plant where the energy product was produced;”;

“verifier’s assurance report” means a report which meets the requirements of regulation 6;”.

(6) Omit the definition of “the fuel baseline standard”.

(7) Omit the definition of “greenhouse gas emissions per unit of energy”.

(8) For the definition of “non-regulated supplier”, substitute—

“non-regulated supplier” means—

(a) an electricity supplier;

(b) a supplier, other than an electricity supplier, which is not subject to the GHG reporting requirement imposed under regulation 4;”.

(9) For the definition of “relevant feedstock”, substitute—

“relevant feedstock” has the meaning given in article 2 of the RTFO Order;”.

(10) In the definition of “the reporting deadline”, for “29th November”, in each place where it occurs, substitute “15th September”.

(11) For the definition of “supplier”, substitute—

“supplier” means—

(a) a supplier of energy products;

(b) an electricity supplier;”.

(12) Omit the definition of “supply”.

Amendment of regulation 3

30.—(1) Regulation 3 (definitions of energy products and relevant use) is amended as follows.

(2) In paragraph (3)—

(a) after “Regulations” insert “, unless specified otherwise;”;

(b) after “liquid fuel” insert “(and vice-versa)”.

(3) For paragraph (4), substitute—

(a) The Renewable Energy Directive was amended by Council Directive 2013/18/EU of 13 May 2013 (OJ L 158 10.6.2013 p.230) and Directive (EU) 2015/1513.

“(3A) For the purposes of these Regulations, references to a type of energy product as being “renewable” are references to an energy product of that type which meets the definition of “renewable transport fuel”.

(4) “Relevant use” means use within the United Kingdom in non-road transports or road vehicles.”.

(4) Omit paragraph (5).

(5) Before paragraph (6), insert—

“(5A) “Biofuel” has the meaning given in section 132(1) of the Energy Act 2004.”.

(6) After paragraph (9), insert—

“(10) “RFNBO” has the meaning given in article 3 of the RTFO Order.”.

Amendment of regulation 4

31. In regulation 4(1) (the motor fuel greenhouse gas reporting requirement), for “time when the requirement to pay the duty of excise with which they are chargeable takes effect” substitute “assessment time”.

Amendment of regulation 5

32.—(1) Regulation 5 (determinations of amounts and greenhouse gas intensity of energy products for relevant use) is amended as follows.

(2) For the heading, substitute “Determinations of amounts, energy content and GHGi of energy products”.

(3) In paragraph (1), for “at the time when the requirement to pay the duty of excise upon it takes effect,” substitute “, other than renewable transport fuel which is to be used as fuel for aircraft, at the assessment time,”.

(4) For paragraph (2), substitute—

“(2) Subject to paragraphs (2A) and (3)—

- (a) in the case of renewable transport fuel which meets the sustainability criteria, the GHGi referable to an amount of that fuel are to be calculated by reducing the fossil fuel comparator by the applicable percentage, with that percentage being calculated in accordance with paragraph 3(3) of the Schedule to the RTFO Order;
- (b) in the case of biofuel (including biofuel for use in aviation) where the fuel does not meet the sustainability criteria or in respect of which the supplier does not submit a verifier’s assurance report, the GHGi referable to an amount of that fuel—
 - (i) are the relevant weighted value; or
 - (ii) if there is no such relevant weighted value, are to be reported as “unknown”;
- (c) in the case of RFNBO in respect of which the supplier does not submit a verifier’s assurance report, the GHGi referable to an amount of that fuel—
 - (i) are the relevant weighted value; or
 - (ii) if there is no such relevant weighted value, are to be reported as “unknown”;
- (d) in the case of RFNBO which does not fall within sub-paragraph (a), but in respect of which the supplier submits a verifier’s assurance report, the GHGi of that fuel is the value verified by the verifier’s assurance report;
- (e) in the case of fuels other than renewable transport fuels or electricity, the GHGi referable to an amount of that fuel—
 - (i) are the relevant weighted value; or
 - (ii) if there is no such relevant weighted value, are to be reported as “unknown”.

(2A) For the purposes of paragraph (2)(b), (c) and (e), the relevant weighted value used or to be used, and any decision as to whether there is an appropriate relevant weighted value, in relation to the fuel in question, is subject to the Administrator’s approval.”.

(5) In paragraph (3)—

- (a) in sub-paragraph (a), for “(2)” substitute “(2)(a) to (d), which are relevant to the partially renewable transport fuel concerned,”;
- (b) in sub-paragraph (b), after “purposes” insert “, and the calculations at paragraph (2)(e) apply to the percentage of the energy content of the fuel which is so treated”.

(6) Omit paragraph (4).

(7) After paragraph (5), insert—

“(5A) For the purposes of paragraph (2) and (2A), “relevant weighted value” means—

- (a) in relation to paragraph (2)(b) and (c), the weighted life cycle GHG intensity value for the equivalent fossil fuel set out in paragraph 5 of Part 2 of Annex I to the GHG Directive;
- (b) in relation to paragraph (2)(e), the weighted life cycle GHG intensity value for the fuel in question set out in paragraph 5 of Part 2 of Annex I to the GHG Directive.”.

(8) In paragraph (6)—

- (a) before sub-paragraph (a), omit “is”;
- (b) in sub-paragraph (a), at the beginning, insert “is”;
- (c) in sub-paragraph (b), at the beginning, insert “is”;
- (d) in sub-paragraph (c), at the beginning, insert “is”;
- (e) in sub-paragraph (d), at the beginning, insert “is”;
- (f) after sub-paragraph (d), insert—

“(e) is hydrotreated vegetable oil derived from relevant feedstocks which is thermochemically treated with hydrogen derived from a non-biological origin, the percentage of the energy content of the fuel which is attributable to relevant feedstocks is deemed to be 100%;

(f) contains RFNBO, where the process energy used to produce the RFNBO is electricity that is entirely taken from the national electricity grid of the country in which the RFNBO is or was produced, the percentage of the energy content of the fuel which is attributable to relevant feedstocks is deemed to be the annual average percentage of electricity for that country’s national grid which is produced from renewable sources other than biomass (within the meaning given in article 2(2) of the RTFO Order).

(7) But if the Administrator considers that it is not appropriate to use the methodology in paragraph (6)(f) to determine the percentage of the energy content of the fuel which is attributable to relevant feedstocks, that percentage is to be determined in accordance with such other methodology as the Administrator may consider appropriate in a particular case.”.

Amendment of regulation 6

33.—(1) Regulation 6 (verifier’s assurance report) is amended as follows.

(2) For paragraph (1), substitute—

“(1) A regulated supplier which supplies biofuel which is for relevant use must submit to the Administrator a verifier’s assurance report which gives details of—

- (a) the compliance of the biofuel supplied with the sustainability criteria; and
- (b) the additional sustainability information in respect of that biofuel.”.

(3) In paragraph (4), at the beginning, for “A” substitute “Subject to paragraph (6), a”.

(4) In paragraph (5), omit sub-paragraph (a) (definition of “connected person”).

(5) After paragraph (5), insert—

“(6) If the Administrator requires a supplier to produce a verifier’s assurance report under regulation 13(4)(a) (see also regulation 13(8)), then paragraph (4) has effect as if for “limited assurance engagements”, in both places where the words occur, there were substituted “limited assurance engagements or, if the Administrator requires, reasonable assurance engagements”.”.

Insertion of Part 2A

34. After Part 2 (the motor fuel greenhouse gas reporting requirement), insert—

“PART 2A

THE GHG EMISSIONS THRESHOLD AND THE GHG REDUCTION OBLIGATION

Application of Part 2A

6A. This Part applies to regulated suppliers in relation to the reporting periods beginning on 1st January 2019 and 1st January 2020.

The unit GHGi threshold and the GHG reduction obligation

6B.—(1) This regulation applies to an energy product supplied by a regulated supplier if—

- (a) the energy product was supplied for relevant use;
- (b) the energy product was supplied in a reporting period to which this Part applies (the “applicable reporting period”);
- (c) where the assessment time falls within that period, the energy product was owned by the regulated supplier at that time; and
- (d) the condition in paragraph (2) is met.

(2) The condition is that the GHGi of the energy product is higher than the amount (the “unit GHGi threshold”) specified in column (1) of the following table for the applicable reporting period specified in column (2) of the table—

<i>(1) Unit GHGi threshold</i>	<i>(2) Applicable reporting period</i>
90.34 gCO _{2eq} /MJ	2019
88.45 gCO _{2eq} /MJ	2020

(3) A regulated supplier which supplies one or more energy products to which this regulation applies in a reporting period incurs a GHG reduction obligation in respect of that period.

(4) If a regulated supplier incurs a “GHG reduction obligation” the supplier must account to the Administrator for the amount of that supplier’s GHG reduction obligation (as to which, see regulation 6C) by—

- (a) notifying the Administrator of a debit, from the supplier’s account, of GHG credits equal to the value of all or part of the GHG reduction obligation in accordance with regulation 16F (whether the credits were issued to the regulated supplier under regulation 16C or transferred to the supplier under regulation 16D);
- (b) making payment to the Administrator in accordance with regulation 16F (payments).

Calculation, and notification, of amount of GHG reduction obligation

6C.—(1) The Administrator must—

- (a) calculate the amount, expressed in kgCO_{2eq}, of the supplier’s GHG reduction obligation; and
- (b) inform the supplier of that amount as soon as reasonably practicable after the end of the reporting period concerned.

(2) The Administrator must calculate the amount described in paragraph (1)(a) as follows—

- (a) apply the formula in paragraph (3) to calculate the amount (“P”), expressed in kgCO_{2eq}, for each energy product to which regulation 6B applies in respect of the reporting period concerned; and
- (b) add together the results of the calculations under sub-paragraph (a).

(3) Subject to paragraph (4), P is calculated as follows—

$$P = \left(\frac{((GHGi \times AF) - Z) \times V \times ED}{1000} \right) - D$$

where—

GHGi is the GHGi of the energy product;

AF is the adjustment factor set out in paragraph (5);

Z is the unit GHGi threshold for the reporting period concerned;

V is the amount of the energy product supplied, expressed in—

- (a) kilograms for gaseous fuels; or
- (b) litres for liquid fuels;

ED is the lower heating value of the energy product supplied, expressed in—

- (a) MJ per kilogram for gaseous fuels; or
- (b) MJ per litre for liquid fuels;

D is—

- (a) in the case of a supplier which supplied fewer than 10 million litres of energy product with a GHGi above the unit GHGi threshold for relevant use in the reporting period concerned—

- (i) 59,352 kgCO_{2eq}, where that period is that beginning on 1st January 2019;
- (ii) 89,029 kgCO_{2eq}, where that period is that beginning on 1st January 2020; and

- (b) in the case of a supplier which supplied 10 million litres or more of energy product with a GHGi above the unit GHGi threshold for relevant use in the reporting period concerned, 0.

(4) If P is calculated to be a negative number, then P is instead deemed to be zero.

(5) The adjustment factor (AF) in the formula in paragraph (3) is—

- (a) if the predominant conversion technology is an internal combustion engine, 1;
- (b) if the predominant conversion technology is a battery electric powertrain, 0.4; or
- (c) if the predominant conversion technology is a hydrogen fuel cell electric powertrain, 0.4.”.

Amendment of regulation 7

35. In regulation 7(1) (administration), after “reporting requirement” insert “, matters in relation to any GHG reduction obligation of a supplier and GHG credits”.

Amendment of regulation 8

36.—(1) Regulation 8 (establishment of accounts) is amended as follows.

(2) In paragraph (1)—

- (a) for “greenhouse gas emissions per unit” substitute “GHG”;
- (b) in sub-paragraph (a), after “reporting requirement” insert “or a GHG reduction obligation”.

(3) After paragraph (1), insert—

“(1A) The Administrator may establish and maintain an account for any person not falling within paragraph (1) who intends to apply for, or trade or invest in, GHG credits.”.

(4) In paragraph (2), after “paragraph (1)” insert “or (1A)”.

(5) After paragraph (3), insert—

“(3A) The Administrator may not establish an account for any person under this regulation unless the Administrator is satisfied that the person has consented to allowing the Administrator such access to premises (other than a dwelling), computers, records or documents as the Administrator may from time to time require in order to verify information given by the person.”.

(6) In paragraph (5), omit “in order to satisfy the Administrator that the person is, or is likely to become, a supplier of energy products for relevant use”.

Amendment of regulation 9

37.—(1) Regulation 9 (power of the Administrator to require further information or evidence) is amended as follows.

(2) In paragraph (1)—

- (a) for “8” substitute “8(1)”;
- (b) after “reporting requirement” insert “or a GHG reduction obligation”;
- (c) for “information or produce” to the end, substitute “evidence or information to the Administrator as may be necessary to satisfy the Administrator as to whether the account holder is subject, or is likely to become subject, to the GHG reporting requirement or a GHG reduction obligation.”.

(3) After paragraph (1), insert—

“(1A) Where the Administrator has reason to believe that an account holder for whom an account has been established under regulation 8(1A) is holding that account for a purpose other than trading or investing in GHG credits, the Administrator may require the account holder to provide such evidence or information to the Administrator as may be necessary to satisfy the Administrator as to whether the account holder holds the account for the purpose of trading or investing in GHG credits.”.

Amendment of regulation 10

38.—(1) Regulation 10 (closure of accounts) is amended as follows.

(2) The existing provision is renumbered as paragraph (1).

(3) In paragraph (1) (as so renumbered), for “8” substitute “8(1)”.

(4) After paragraph (1), insert—

“(2) The Administrator must close an account established under regulation 8(1) if the Administrator considers that the account holder no longer has good reason to hold the account.

(3) The Administrator may close an account established under regulation 8(1A) if—

- (a) all GHG credits standing to the credit of the account have been revoked or may no longer be produced as evidence of emissions savings and the Administrator—

- (i) is no longer satisfied that the account holder is holding the account for the purpose of applying for, or trading or investing in, GHG credits; or
- (ii) is satisfied that the account holder has failed to comply with regulation 8(5), (6) or 9(1A); or
- (b) in the immediately preceding period of 36 months—
 - (i) no GHG credit has been issued to the account holder; or
 - (ii) no GHG credit has been credited to the account of the account holder.”.

Amendment of regulation 12

39. In regulation 12 (processing of information and evidence), in paragraph (1)(a)(i), after “reporting requirement” insert “or a GHG reduction obligation”.

Substitution of regulation 13

40. For regulation 13 (duty to require information from regulated suppliers), substitute—

“Duty to require information from regulated suppliers and applicants for GHG credits

13.—(1) This regulation applies to—

- (a) regulated suppliers, for the purposes of the GHG reporting requirement;
- (b) a supplier applying for GHG credits.

(2) Upon request by the Administrator, a supplier to which this regulation applies must provide to the Administrator such of the evidence or information in the Schedule as the Administrator specifies.

(3) When requiring a supplier to provide evidence or information under paragraph (2), the Administrator must impose requirements as to—

- (a) the form in which the evidence or information is to be provided;
- (b) the methodology to be used in calculating and providing the evidence or information; and
- (c) the period within which the evidence or information must be provided.

(4) The Administrator may require a supplier to—

- (a) provide such evidence as the Administrator may determine is necessary in order to substantiate information which the supplier is to provide or has provided to the Administrator under this regulation;
- (b) provide the Administrator with such information as the Administrator may require for purposes connected with the carrying out of the Administrator’s functions.

(5) In exercising the power under paragraph (4) the Administrator may impose requirements as to—

- (a) the form in which the evidence or information must be provided;
- (b) the methodology to be used in calculating, compiling and providing the evidence or information; and
- (c) the period within which the evidence or information must be provided.

(6) Where the Administrator imposes a requirement under this regulation on a supplier to provide evidence or information, the supplier must—

- (a) provide that evidence or information; and
- (b) ensure that it is—
 - (i) accurate; and

- (ii) provided in such form, and using such methodology, and within such period, as the Administrator requires.

(7) Nothing in this regulation obliges the Administrator to impose a requirement on a regulated supplier to provide evidence or information to confirm matters previously reported by the same supplier to the Administrator under the RTFO Order.

(8) The power of the Administrator to require a supplier to provide evidence under paragraph (4)(a) includes the power to require the supplier to produce a verifier's assurance report in relation to any of the following (where the supplier has applied for a GHG credit in relation to any of the following)—

- (a) electricity supplied for use in electric road vehicles;
- (b) gaseous renewable transport fuel which is to be used only in non-road transports;
- (c) RFNBO, in respect of which no RTF certificate has been issued under the RTFO Order;
- (d) renewable hydrogen or hydrogen from fossil fuel sources;
- (e) renewable transport fuel for use in aviation;
- (f) a UER.”.

Amendment of regulation 14

41.—(1) Regulation 14 (power to require information from non-regulated suppliers) is amended as follows.

(2) Before paragraph (1), insert—

“(A1) This regulation applies to non-regulated suppliers to which regulation 13 does not apply.”.

(3) In paragraph (2), for “paragraph (1) of regulation 13” substitute “paragraph (2) of regulation 13”.

Amendment of regulation 15

42.—(1) Regulation 15 (mass balance system) is amended as follows.

(2) In paragraph (2), for “13(5)(b)(i)” substitute “13(6)(b)(i)”.

(3) In paragraph (4), for “13(5)” substitute “13(6)”.

Insertion of regulation 15A

43. After regulation 15, insert—

“Data allocation system: information on the origin and place of purchase of an energy product received from multiple sources

15A.—(1) This regulation applies where a supplier is providing information to the Administrator for the purposes of regulation 13(2) in relation to an energy product (“relevant energy product”) or crude oil (“relevant crude”) which—

- (a) has been received by a supplier from multiple sources; and
- (b) has become a mixture of energy products or relevant crudes of different origins or places of purchase.

(2) The supplier may use a data allocation system in accordance with this regulation instead of providing information on the origin or place of purchase of the relevant energy product or the relevant crude in the terms required by regulation 13(2).

(3) If the condition in paragraph (4) is met, the supplier may report to the Administrator the ratios of the relevant energy product or the relevant crude used by the refinery (or the

refineries) from which the supplier received the material which is subject to the data allocation system.

(4) The condition is that the origin and the place of purchase of the relevant energy product or the relevant crude which is subject to the data allocation system are identical to the origin and the place of purchase attributed to it by that system.

(5) A data allocation system is a system which—

- (a) allows amounts of energy products or crude oil of different origins or places of purchase to be mixed (“the mixture”);
- (b) provides for the origins or the places of purchase of amounts added to the mixture to be attributed to other amounts withdrawn from the mixture; and
- (c) requires the origins or the places of purchase attributed to the sum of the amounts withdrawn from the mixture to be the same, and in the same proportions, as the origins or the places of purchase attributed to the sum of the amounts added to the mixture.

(6) In this regulation, “origin” and “place of purchase” have the meanings given in paragraph 11 of the Schedule.”.

Amendment of regulation 16

44.—(1) Regulation 16 (other powers and duties conferred and imposed on the Administrator) is amended as follows.

(2) In paragraph (1)(a)—

- (a) after “reporting requirement” insert “and GHG reduction obligations”;
- (b) after “that requirement” insert “or such an obligation”.

(3) In paragraph (1)(b), for “13(1)(a)(i) to (iii)” substitute “13(2)”.

(4) After paragraph (1)(c), insert—

- “(d) where a GHG credit is transferred between account holders, to record that fact in the relevant accounts;
- (e) to ensure, so far as reasonably practicable, that there is no regulated supplier which, having failed to produce the evidence required to discharge fully the GHG reduction obligation for a reporting period, is failing to pay the sum due under regulation 16F.”.

(5) For paragraph (3), substitute—

“(3) For the purposes of paragraph (2), regulation 6(4) is to have effect as if, for regulation 6(4)(c), there were substituted—

“(c) consider whether the relevant systems used—

- (i) to collate and report information relating to the amount of each type of energy product supplied;
- (ii) in the case of crude oil, to report its origin, and the reasonable steps taken to ascertain its origin;
- (iii) in the case of refined fuel (including refined biofuel), to report its place of purchase, and the reasonable steps taken to ascertain its place of purchase,

are likely to produce data which is reasonably accurate and reliable and whether there are controls in place to help protect against material misstatements due to fraud or error, and for these purposes “origin” and “place of purchase” have the meanings given in paragraph 11 of the Schedule.”.

Insertion of Part 3A

45. After Part 3 (administration), insert—

“PART 3A GHG CREDITS

GHG credits: calculation of CO_{2eq} savings

16A.—(1) A supplier, or in the case of a UER, a regulated supplier, may apply to the Administrator for one GHG credit for each whole kgCO_{2eq} saved (the “emissions saving”) by the supplier, or in the case of emissions savings attributable to a UER, by the regulated supplier, during the reporting periods beginning on 1st January 2019 and 1st January 2020.

(2) An application for GHG credits must be made in accordance with regulation 16B.

(3) Except in respect of emissions savings attributable to a UER, the Administrator must calculate the supplier’s emissions savings (“N”) by—

- (a) applying the formula in paragraph (4), in respect of—
 - (i) each energy product supplied by the supplier which has a GHG_i which is lower than the unit GHG_i threshold for the reporting period concerned;
 - (ii) electricity supplied by the supplier for use in electric road vehicles; and
- (b) adding together the results of the calculations under sub-paragraph (a).

(4) The formula is—

$$N = \frac{(TGHG_i - (GHG_i \times AF)) \times V \times ED}{1000}$$

where—

N is the amount of kgCO_{2eq} saved;

TGHG_i is the unit GHG_i threshold for the reporting period concerned;

GHG_i is the GHG_i of the energy product or of the electricity;

AF is the adjustment factor set out in paragraph (6);

V is the amount of the energy product, or of electricity, supplied, expressed in—

- (a) kilograms for gaseous fuels;
- (b) litres for liquid fuels; or
- (c) kilowatt hours for electricity used in electric road vehicles;

ED is—

(a) in the case of an energy product, its lower heating value expressed in—

- (i) MJ per kilogram for gaseous fuels; or
- (ii) MJ per litre for liquid fuels;

(b) in the case of electricity used in electric road vehicles, 3.6 MJ per kilowatt hour.

(6) The adjustment factor (AF) in the formula in paragraph (4) is—

- (a) if the predominant conversion technology is an internal combustion engine, 1;
- (b) if the predominant conversion technology is a battery electric powertrain, 0.4; or
- (c) if the predominant conversion technology is a hydrogen fuel cell electric powertrain, 0.4.

(7) Where the emissions savings are attributable to a UER, the Administrator must ensure that the savings are calculated in accordance with the UER calculation requirements set out in paragraph 19 of the Schedule.

Applications for GHG credits

- 16B.**—(1) An application for GHG credits must be made—
- (a) in electronic form, through a website specified by the Administrator for that purpose; or
 - (b) in such other manner as the Administrator determines in a particular case.
- (2) The evidence which must be included in the application is—
- (a) a declaration from an individual nominated by the applicant which confirms that the information submitted in the application and, if different, the information referred to in paragraph (3)(b), is accurate;
 - (b) a declaration from an individual nominated by the applicant which confirms that the emissions savings claimed have not already been, and will not be, counted under or in relation to—
 - (i) Article 7a of the directive in any other state;
 - (ii) the Kyoto Protocol to the United Nations Framework Convention on Climate Change, signed at Kyoto on 11th December 1997^(a); or
 - (iii) a GHG reduction obligation of another supplier;
 - (c) the evidence or information required under regulation 13 which relates to the GHG credit applied for;
 - (d) 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 applicant in relation to the emissions savings claimed.
- (3) An applicant for GHG credits must also satisfy the following conditions in order for the applicant to be issued with GHG credits—
- (a) the applicant has an account under regulation 8;
 - (b) where the energy product concerned is biofuel, the applicant has provided the Administrator with a verifier’s assurance report in respect of the information submitted in connection with the application relating to the compliance of the biofuel with the sustainability criteria;
 - (c) the Administrator is satisfied, so far as is reasonably practicable, that the evidence or information provided by the supplier under paragraph (2)(c) fulfils the criteria set out in paragraph (6);
 - (d) any duty of excise payable in relation to the energy product in respect of which the emissions savings are claimed has been paid; and
 - (e) the applicant makes the application for the GHG credit by 12th May immediately following the reporting period during which—
 - (i) the energy product was supplied;
 - (ii) the electricity was supplied for use in electric road vehicles;
 - (iii) the emissions saving was generated by the UER,or such later date as the Administrator may notify to the applicant for the purposes of this sub-paragraph.
- (4) For the purposes of this regulation, “the energy product” is the energy product in respect of which the application for GHG credits has been made.
- (5) A person who makes a declaration for the purposes of this regulation must ensure that the evidence or information submitted in or with the application is accurate.
- (6) The criteria referred to in paragraph (3)(c) are that the evidence or information—

^(a) UK Treaty Series No.6 (2005); Cm 6485, also available online at <http://treaties.fco.gov.uk/docs/pdf/2005/TS0006.pdf>.

- (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 regulation 13 or 14, or failing such notification, as the Administrator notifies for the purposes of this paragraph.

(7) A supplier is not required to submit evidence or information to the Administrator as part of an application for a GHG credit under these Regulations if the supplier has already submitted the same or equivalent evidence or information as part of an application for RTF certificates.

(8) The Administrator must consider an application for GHG credits in parallel with any application made by the same person at the same time for RTF certificates.

Issue of GHG credits: requirements and supplementary

16C.—(1) The Administrator must issue a supplier with GHG credits for the supplier's emissions savings if the requirements in paragraphs (2) to (5) are met.

(2) The requirements in regulation 16B(1) to (3) and (5), which are relevant to the supplier's emissions savings to which the application for GHG credits relates, must be met.

(3) In relation to an application for a GHG credit arising from emissions savings which are attributable to an energy product, the energy product must be (or have been)—

- (a) owned by the supplier at the assessment time;
- (b) supplied by the supplier at, or for delivery to, places in the United Kingdom during a reporting period mentioned in regulation 16A(1); and
- (c) for use in aircraft, non-road transports or road vehicles.

(4) In relation to an application for a GHG credit arising from emissions savings which are attributable to electricity for use in electric road vehicles, the electricity must be (or have been) supplied by the electricity supplier at the assessment time.

(5) In relation to an application for a GHG credit arising from emissions savings which are attributable to a UER, the UER must—

- (a) meet the UER eligibility requirements; and
- (b) be calculated in accordance with the UER calculation requirements,

set out in the Schedule.

(6) A GHG credit must be issued as soon as reasonably practicable after an application for it has been made in accordance with regulation 16B.

(7) For the purposes of these Regulations, the Administrator issues a GHG credit to a supplier by recording the credit in the account of the supplier.

(8) As soon as reasonably practicable after issuing a GHG credit, the Administrator must notify the supplier of the issue of the credit.

(9) If an account holder asks the Administrator for information as to the number of GHG credits held to the credit of the holder's account, the Administrator must provide that information to the account holder as soon as is reasonably practicable after receipt of the request.

Transfers of GHG credits

16D.—(1) A transfer of a GHG credit may be made between any persons who are account holders on such terms and in exchange for such payment as those persons agree.

(2) Such a transfer is not effective unless—

- (a) the transferor notifies the Administrator of the following details of the transfer—
 - (i) the name of the account holder to whom the credit is transferred;
 - (ii) the date of the transfer (“the notified date”); and
 - (iii) the reporting period in respect of which the credit was issued;
 - (b) the transferor so notifies the Administrator—
 - (i) through a website specified by the Administrator for that purpose; 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 with the day before the date of the transfer;
 - (d) the transfer relates to not more than one transferee;
 - (e) the GHG credit 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, the credit is not capable of being revoked under regulation 16E.
- (3) Where—
- (a) a transfer relates to some (but not all) of the GHG credits held by a transferor on the date of the transfer; and
 - (b) the GHG credits held by the transferor on that date were not all issued at the same date and time,

it is to be presumed, unless the transferor notifies the Administrator otherwise at the same time as notifying the Administrator of the details of the transfer in accordance with paragraph (2)(a), that the transfer relates to the credits which were issued at the earlier dates and times.

(4) In the event of there being an insufficient number of credits held in a transferor’s account on the notified date to transfer credits to more than one transferee, the Administrator must give priority to the transfer which was first notified to the Administrator.

(5) For the purposes of these Regulations, the Administrator transfers a GHG credit from one account holder to another account holder by recording a debit of a GHG credit in the transferor’s account and a credit of a GHG credit in the transferee’s account.

Revocation of GHG credits

16E.—(1) Subject to the following paragraphs, the Administrator may revoke a GHG credit where the Administrator is satisfied that—

- (a) the declaration provided in relation to that credit pursuant to regulation 16B(2)(a) is, or was, false;
- (b) the credit was issued as a consequence of any fraudulent behaviour, statement or undertaking on the part of the supplier to which it was issued, any connected person or any person who has produced the verifier’s assurance report;
- (c) the information provided to the Administrator in relation to the credit pursuant to regulation 13(2) was materially inaccurate;
- (d) the evidence provided in relation to the information referred to in sub-paragraph (c) was insufficient to substantiate it; or
- (e) a verifier’s assurance report in relation to that credit was materially inaccurate.

(2) Before revoking a GHG credit, the Administrator must give notice in writing to the supplier to which the credit was issued and, where the credit has been transferred to another person, to whose credit the GHG credit is held, to that other person.

(3) The notice must state—

- (a) that the Administrator is proposing to revoke the GHG credit;
- (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, being a period of not less than 14 days beginning on the date of receipt of the notice.

(4) The Administrator—

- (a) must consider representations made under paragraph (3);
- (b) must decide whether to revoke the GHG credit; but
- (c) may not revoke the credit—
 - (i) before the end of the period of 28 days beginning on the date of the notice; and
 - (ii) later than 16th July (or the next working day after 16th July, if 16th July is not a working day) immediately following the reporting period during which the GHG credit was issued.

(5) Where the Administrator revokes a GHG credit, the Administrator must, within the period of 7 days beginning on the date of revocation—

- (a) give notice (the “revocation notice”) in writing of such revocation to the supplier to which the credit was issued, and to any transferee; and
- (b) state in the revocation notice—
 - (i) the grounds for the revocation;
 - (ii) that the supplier or any transferee (or both) may apply to the Administrator by notice (the “reconsideration notice”), in writing, to reconsider the revocation; and
 - (iii) the requirements about the reconsideration notice which are set out in paragraph (7).

(6) Where the Administrator revokes a GHG credit, the supplier to which the credit was issued or any transferee (or both) may apply to the Administrator to reconsider the revocation by way of a reconsideration notice.

(7) A reconsideration notice must—

- (a) be given to the Administrator within the period of 14 days beginning on the date of receipt of the revocation notice;
- (b) set out the grounds for reconsidering the revocation; and
- (c) contain any representations which the supplier or transferee wishes to make in relation to the reconsideration of the revocation.

(8) Where a reconsideration notice is given, the Administrator must—

- (a) consider any representations which the supplier or transferee has made under paragraph (7); and
- (b) reconsider the revocation within the period of 10 days beginning on the date of receipt of the reconsideration notice.

(9) On reconsidering the revocation, the Administrator must—

- (a) reinstate the GHG credit; or

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

(10) The Administrator must give notice in writing of the Administrator's decision and, in the case of a confirmation of a revocation of a GHG credit, of the grounds for that revocation, to the supplier to which the credit was issued, and to any transferee.

(11) Where—

- (a) the Administrator does not reconsider the revocation by the date referred to in paragraph (8); or
- (b) a GHG credit is revoked but is subsequently reinstated,

the credit is deemed to have been reinstated immediately before the end of the reporting period to which the credit relates.

(12) The Administrator may hold an oral hearing before making a decision on a proposed revocation or on a reconsideration of a revocation.

(13) A person who provides information or produces evidence to the Administrator in respect of a proposed revocation or a reconsideration of a revocation must ensure that that information or evidence is accurate.

Payments

16F.—(1) As soon as reasonably practicable after the end of each reporting period mentioned in regulation 16A(1), the Administrator must notify a regulated supplier of the following—

- (a) the emissions savings needed in order for that supplier to meet its GHG reduction obligation in relation to that period; and
- (b) the number of GHG credits being held to the credit of the supplier's account which may be used as evidence for the purposes of meeting the supplier's GHG reduction obligation in relation to that period.

(2) A credit may be produced as evidence by the supplier pursuant to these Regulations—

- (a) by means of an electronic submission transmitted to a website specified by the Administrator for that purpose, which identifies the credit of a GHG credit in the supplier's account; or
- (b) by other means, in a case where the Administrator determines that it is necessary to allow production of a GHG credit by those means.

(3) A regulated supplier must notify the Administrator of the number of GHG credits held in the supplier's account which are to be counted towards the discharge of the supplier's GHG reduction obligation for the reporting period in question, and which are to be debited accordingly from the account.

(4) That notification must be given to the Administrator by no later than 15th September (or the next working day after 15th September, if 15th September is not a working day) immediately following the reporting period to which the GHG credit relates.

(5) Where a regulated supplier fails to notify the Administrator of the number of GHG credits to be counted by the date mentioned in paragraph (4), the Administrator must deem the number to be nil.

(6) A regulated supplier which does not, by virtue of paragraph (3), wholly discharge its GHG reduction obligation for a reporting period by the date specified in paragraph (4) must pay to the Administrator a sum (the "buy-out amount") determined in accordance with paragraph (7).

(7) The buy-out amount is determined as follows—

$$\text{Buy - out amount (pence)} = (N - \text{GHG credits redeemed}) \times 7.4$$

where—

“N” is the amount of the supplier’s GHG reduction obligation for the reporting period concerned, expressed in kgCO_{2eq} and rounded up or down to the nearest kilogram, calculated in accordance with regulation 6C;

“GHG credits redeemed” is the number of GHG credits redeemed by the supplier, within the reporting period, for credit against the supplier’s GHG reduction obligation.

(8) The period within which the buy-out amount must be paid to the Administrator (the “buy-out payment period”) is the period beginning on 1st January immediately following the reporting period in question and ending on 26th October of that year.

(9) Where a supplier does not pay all of the buy-out amount to the Administrator before the end of the buy-out payment period—

- (a) the unpaid buy-out amount carries interest at the rate specified in paragraph (10), and is to be calculated in accordance with paragraph (11); and
- (b) the unpaid buy-out amount, and any unpaid interest, is a debt due from the supplier to the Administrator until it has been paid in full.

(10) The rate for the purpose of paragraph (9)(a) is 5 percentage points above the base rate of the Bank of England as at the day immediately after the last day of the buy-out payment period in question.

(11) The interest is to be calculated on a daily basis for the period beginning on the day immediately after the last day of the buy-out payment period in question, and ending on the date on which payment is received by the Administrator.”.

Amendment of regulation 17

46.—(1) Regulation 17 (reliance upon RTF certificates, etc.) is amended as follows.

(2) In the heading, for “to prove sustainability of” substitute “as evidence in relation to”.

(3) For paragraph (1), substitute—

“(1) A RTF certificate may be relied upon, by the supplier which was initially awarded the certificate, as evidence that the renewable transport fuel to which the certificate relates—

- (a) satisfies the sustainability criteria;
- (b) provides assurance and verification as to the volumes of fuel supplied; and
- (c) demonstrates the GHGi of the fuel.”.

(4) Omit paragraph (5).

Amendment of regulation 18

47.—(1) Regulation 18 (civil penalties) is amended as follows.

(2) In paragraph (1), for “or 16(4)”, substitute “16(4) or 16F(6)”.

(3) In paragraph (2), for “13(5) or 14(5)” substitute “13(2), 13(6), 14(5), 16B(5) or 16E(13)”.

(4) In paragraph (3), after “subsequently” insert “, but not later than 16th August (or the next working day after 16th August, if 16th August is not a working day) immediately following the reporting period to which the information or evidence relates”.

(5) For paragraph (4), substitute—

“(4) The amount of a civil penalty under this regulation is—

- (a) in the case of an account holder who has gained, or attempted to gain, one or more GHG credits by contravening a provision referred to in paragraph (1) or (2), an amount which is equivalent to the lesser of—
 - (i) twice the value of the GHG credits which the account holder has gained, or attempted to gain; or
 - (ii) 10 per cent of the turnover of the specified business of the supplier; and

- (b) in any other case, £50,000 or the amount equal to 10 per cent of the turnover of the specified business of the supplier, whichever is the lesser.

(4A) In paragraph (4)(a), the value of a GHG credit is equivalent to the buy-out amount, determined in accordance with regulation 16F(7), for the reporting period in respect of which the GHG credit is issued or would have been issued.”.

Amendment of regulation 25

48. In regulation 25 (review of implementation)—

- (a) omit paragraph (2);
- (b) omit paragraph (4).

Substitution of regulation 26

49. For regulation 26 (review of regulations), substitute—

“Review

26.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 15th April 2023.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015(a) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the directive and the GHG Directive are implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).”.

Insertion of Schedule

50. After regulation 26, insert—

(a) Section 30 of the Small Business, Enterprise and Employment Act 2015 (c.26) was amended by section 19 of the Enterprise Act 2016 (c.12).

Evidence or information to be provided by a supplier to the
Administrator under regulation 13(2)

General information

1. Information in relation to the identity of the supplier.
2. Information as to whether the supplier has supplied any of the following during a reporting period—
 - (a) energy products for relevant use;
 - (b) electricity for use in electric road vehicles;
 - (c) energy products for use in aircraft.

Information about energy products

3. Information as to—
 - (a) the total amount of each type of energy product supplied during a reporting period, expressed as—
 - (i) the volume of liquid energy product supplied in litres; or
 - (ii) the weight of gaseous energy product supplied in kilograms; and
 - (b) the amount of energy of the energy products falling within sub-paragraph (a), expressed in MJ and calculated using the lower heating value.
4. Information as to how much of an energy product supplied during a reporting period is—
 - (a) fossil fuel (including fossil fuel blended with other fuel);
 - (b) wholly renewable transport fuel (excluding fossil fuel blended with wholly renewable transport fuel);
 - (c) partially renewable transport fuel (excluding fossil fuel blended with partially renewable transport fuel).
5. Information as to how much of the energy content of the wholly renewable transport fuel referred to in paragraph 4(b) is attributable to sustainable feedstock.
6. Information as to how much of the energy content of the partially renewable transport fuel referred to in paragraph 4(c) is attributable to sustainable feedstock.
7. Information as to the GHGi of each type of energy product supplied during a reporting period.
8. Information as to the provisional mean values of the estimated indirect land-use change emissions in gCO_{2eq}/MJ from biofuels, in accordance with Annex V to the directive.
9. Information as to the lower heating value for each type of energy product supplied during a reporting period.
10. The additional sustainability information in respect of any relevant renewable transport fuel supplied during a reporting period.
- 11.—(1) If known or if reasonably ascertainable, and subject to regulation 15A and to sub-paragraphs (2) and (3), information as to—
 - (a) the origin of any energy product supplied during a reporting period; and
 - (b) the place of purchase of any energy product supplied during a reporting period.

(2) For the purposes of reporting under sub-paragraph (1)(a), where multiple feedstocks are used in the production of an energy product, a supplier must report on—

- (a) the quantity in litres; and
- (b) the origin,

of the finished product (comprising those feedstocks) supplied during the reporting period.

(3) For the purposes of sub-paragraph (1)(a), “origin” means—

- (a) in relation to a supplier which is not an SME, in respect of fuel that is not renewable transport fuel—
 - (i) the feedstock trade name listed in paragraph 7 of Part 2 of Annex I to the GHG Directive, but only where suppliers hold the necessary information by virtue of—
 - (aa) being a person or undertaking importing crude oil from third countries or receiving a crude oil delivery from a member State (other than the United Kingdom) pursuant to Article 1 of Council Regulation (EC) No 2964/95 of 20 December 1995 introducing registration for crude oil imports and deliveries in the Community(a); or
 - (bb) arrangements to share information agreed with other suppliers; or
 - (ii) in cases not falling within sub-paragraph (i), whether or not the fuel originated from within the EU;
- (b) in respect of biofuel, the biofuel production pathway set out in Annex IV to the directive;
- (c) in respect of renewable transport fuel for which a production pathway is not set out in Annex IV to the directive, the type of fuel and the type of feedstock used to produce it;
- (d) in relation to a supplier that is an SME, in respect of fuel that is not renewable transport fuel, whether or not the fuel originated from within the EU.

(4) But “origin” in sub-paragraph (5) has its natural and ordinary meaning.

(5) For the purposes of sub-paragraph (1)(b), “place of purchase” means—

- (a) in relation to a supplier which is not an SME, in respect of fuel that is not renewable transport fuel, the country and name of the processing facility where the fuel or energy underwent the last substantial transformation used to confer the origin of the fuel or energy in accordance with—
 - (i) Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code(b); and
 - (ii) Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code(c);
- (b) in respect of renewable transport fuel, the country of origin of the feedstock used to produce the fuel;
- (c) in relation to a supplier which is an SME, in respect of fuel that is not renewable transport fuel, whether or not the fuel was purchased within the EU.

(a) OJ L 310 22.12.1995 p.5.

(b) OJ L 343 29.12.2015 p.1, as amended by Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 (OJ L 69 15.3.2016 p.1) and Commission Delegated Regulation (EU) 2016/651 of 5 April 2016 (OJ L 111 27.4.2016 p.1).

(c) OJ L 343 29.12.2015 p.558, as amended by Commission Implementing Regulation (EU) 2017/989 of 8 June 2017 (OJ L 149 13.6.2017 p.19).

12. Information as to the raw material source and process for fuels other than biofuel and electricity supplied during a reporting period, as set out in paragraph 5 of Part 2 of Annex I to the GHG Directive.

13. In the case of biofuel, evidence that the biofuel meets the sustainability criteria.

14. Information as to the adjustment factor (see regulations 6C and 16A) for powertrain efficiencies that applies to an energy product.

Information about electricity for use in electric road vehicles

15. If known or if reasonably ascertainable, information as to actual usage of electricity supplied by the supplier for use in electric road vehicles during a reporting period, or if information as to such actual usage is not known or not reasonably ascertainable, information as to estimated usage of electricity in such vehicles during that period.

16. Information as to the GHGi of the electricity supplied for use in electric road vehicles, during a reporting period.

17. Information as to the adjustment factor (see regulation 16A) for powertrain efficiencies that apply to electricity supplied for use in electric road vehicles.

General information about a UER

18. Information as to—

- (a) the start date of the UER project (which must be after 1st January 2011);
- (b) the annual emission reductions of the UER, expressed in kgCO_{2eq};
- (c) the amount of emissions savings claimed by the supplier in respect of a UER;
- (d) the period during which the claimed UER occurred;
- (e) the location of the UER project which is closest to the source of the upstream emissions, expressed in latitude and longitude coordinates in degrees to the fourth decimal place;
- (f) the hypothetical GHG emissions that would have occurred in the absence of the UER, and GHG emissions after implementation of the UER, expressed in gCO_{2eq}/MJ of feedstock produced;
- (g) any unique identification or registration number in relation to—
 - (i) the UER, including any project or scheme to which the UER relates or under which it was carried out;
 - (ii) the calculation methodology in relation to the UER;
- (h) where the UER project relates to oil extraction, the average annual historical and reporting year gas-to-oil ratio in solution, reservoir pressure, depth and well production rate of the crude oil in question.

UER eligibility requirements and calculation requirements

19.—(1) Evidence demonstrating that—

- (a) the UER complies with the UER eligibility requirements;
 - (b) the UER has been calculated in accordance with the UER calculation requirements.
- (2) The “UER eligibility requirements” are that—
- (a) the person applying for a GHG credit in respect of a UER is a regulated supplier;

- (b) the UER is only applied to the upstream emission's part of the average default values for petrol, diesel, compressed natural gas or liquefied petroleum gas set out in the European Commission's Guidance Note(a) on approaches to quantify, verify, validate, monitor and report UERs;
- (c) the UER is associated with a UER project which started after 1st January 2011;
- (d) the UER is or was generated only during the 2020 calendar year;
- (e) the UER must not also be, or have been, used in, or claimed for compliance with, any other emissions reduction requirements or in relation to another emissions offset scheme; and
- (f) the UER satisfies the local regulatory practice test (as to which, see sub-paragraph (4)).

(3) The "UER calculation requirements" are that—

- (a) the UER must be, or have been, estimated and validated in accordance with principles and standards identified in international standards, and in particular—
 - (i) ISO 14064 (edition 1);
 - (ii) ISO 14065 (edition 2); and
 - (iii) ISO 14066 (edition 1);
- (b) the UER, and the hypothetical GHG emissions that would have occurred in the absence of the UER, must be monitored, reported and verified in accordance with ISO 14064 (edition 1) to the same standards as would be achieved by monitoring, reporting and verification under—
 - (i) Commission Regulation (EU) No 600/2012 of 21 June 2012(b) on the verification of greenhouse gas emission reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council; and
 - (ii) Commission Regulation (EU) No 601/2012 of 21 June 2012(c) on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council; and
- (c) the verification of methods for estimating the UER must be carried out in accordance with part 3 of ISO 14064 (edition 1) and the organisation verifying this must be accredited in accordance with ISO 14065 (edition 2)(d).

(4) In this paragraph, "local regulatory practice test" means that, in the place or country in or from which the UER originates, the UER—

- (a) is not required under local laws or regulations there; or
- (b) is required under local laws or regulations there, but evidence is provided by the person applying for a GHG credit in respect of that UER that those laws or regulations are not routinely enforced in that place or country."

Address
Date

Name
Parliamentary Under Secretary of State
Department for Transport

(a) The European Commission's Guidance Note is undated and has no version number. A copy can be obtained from the European Commission, DG Climate Action, B-1049 Brussels, Belgium or online at https://ec.europa.eu/clima/sites/clima/files/guidance_note_on_uer_en.pdf.

(b) OJ L 181 12.7.2012 p.1.

(c) OJ L 181 12.7.2012 p.30, as amended by Commission Regulation (EU) No 206/2014 of 4 March 2014 (OJ L 65 5.3.2014 p.27) and Commission Regulation (EU) No 743/2014 of 9 July 2014 (OJ L 201 10.7.2014 p.1).

(d) Copies of each of the ISO standards listed can be obtained from the International Organisation for Standardisation, ISO Central Secretariat, Chemin de Blandonnet 8, CP 401 - 1214 Vernier, Geneva, Switzerland (<https://www.iso.org/store.html>).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make various amendments in relation to the implementation of Council Directive (EU) 2015/652 and the changes made to Directives 98/70/EC and 2009/28/EC by Directive 2015/1513/EU. The key changes and provisions are summarised as follows.

Part 2 contains consequential amendments to section 132 of the Energy Act 2004 (c.20).

Part 3 amends the Renewable Transport Fuel Obligations Order 2007 (S.I. 2007/3072, “the RTFO Order”). Regulations 7 and 8 make various amendments in relation to definitions used in the RTFO Order including, in particular, the creation of a new definition for “development fuel”. Regulations 9 and 11 amend certain transport fuel suppliers’ obligations in relation to the production of evidence to show that certain amounts and types of renewable transport fuel have been supplied in the United Kingdom during a particular period; they also amend the way that amounts of fuel are calculated. Regulation 18 makes provision that requires that renewable transport fuel certificates (“RTFC”) must specify, of 3 categories, the particular type of fuel to which the RTFC relates. Regulation 19 makes provision for the award of an additional RTFC for a volume of fuel in certain circumstances. Regulation 20 substitutes the provision as to the redemption of RTFCs by suppliers in later obligation periods. Regulation 22 amends provision as to the calculation of the payment that is required if a supplier fails to meet its main renewable transport fuel obligation or its development fuel target (or both). Regulation 23 sets out the maximum amount of renewable transport fuel derived from relevant crops which may count towards suppliers meeting their obligations in a particular period.

Part 4 amends the Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012 (S.I. 2012/3030). Regulations 29 and 30 make various amendments in relation to definitions. Regulation 34 inserts provision for certain suppliers to incur an obligation to produce evidence that they have reduced or offset amounts of greenhouse gas (“GHG”) emissions where they have supplied, in a particular period, energy products with GHG emissions per unit of energy above a specified threshold. Regulation 40 substitutes provision as to the evidence or information that must be provided by certain suppliers and applicants for GHG credits, and regulation 50 inserts further details about the evidence or information required. Regulation 45 inserts various new provisions in relation to GHG credits, in particular as to the calculation of the number of credits that may be issued to a supplier, applications for credits, the issue of credits, transfers of credits, revocation of credits and the payment that must be made in certain circumstances if a supplier fails to discharge a GHG reduction obligation. Regulation 47 amends the provision as to penalties if certain provisions are contravened.

Pursuant to section 7(8) of the Pollution Prevention and Control Act 1999 (c.24), the amendments set out in Part 4 extend to Northern Ireland.

An impact assessment on the effect that these Regulations will have on the costs of business and the voluntary sector is available from the Low Carbon Fuels Division, Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR (telephone 0207 944 4138). The impact assessment and a transposition note are annexed to the Explanatory Memorandum which is available alongside these Regulations on the UK legislation website at <http://www.legislation.gov.uk>.

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