

SCHEDULE 3

Regulation 12(10)(d)

Land criteria

PART 1

Interpretation

1.—(1) In this Schedule—

“continuously forested area” means land of an area of more than one hectare which includes—

- (a) trees more than five metres tall providing a tree canopy cover of more than 30%, or
- (b) trees collectively having the capacity to provide a tree canopy cover of more than 30% which—
 - (i) are more than five metres tall, or
 - (ii) have the capacity to grow to a height of more than five metres;

“designated for nature protection purposes” means designated pursuant to the law of the United Kingdom or of any part of the United Kingdom or pursuant to the law of any country or territory outside the United Kingdom, for the purpose of protecting the natural environment;

“highly biodiverse grassland” means highly biodiverse grassland that is—

- (a) natural, namely grassland that would remain grassland in the absence of human intervention and which maintains the natural species composition and ecological characteristics and processes, or
- (b) non-natural, namely grassland that would cease to be grassland in the absence of human intervention and which is species-rich and not degraded, unless evidence is provided that the harvesting of the raw material is necessary to preserve its grassland status;

“primary forest” means woodland of native species, where there is no clearly visible indication of human activity and ecological processes are not significantly disturbed;

“wetland area” means land that is covered with or saturated by water—

- (a) permanently, or
- (b) for a significant part of the year.

(2) For the purposes of this Schedule—

- (a) material is added to solid biomass for an exempt purpose if—
 - (i) it is added for the purpose of the use of that solid biomass as a fuel, in order to—
 - (aa) act as a binding agent, or
 - (bb) reduce emissions of dust, carbon dioxide, methane or nitrous oxide from the use of the fuel, and
 - (ii) it does not exceed 2% of the weight of the fuel,
- (b) solid biomass was obtained from a former continuously forested area if the land—
 - (i) was a continuously forested area at any time during January 2008, and
 - (ii) was not a continuously forested area when the solid biomass was obtained from it.
- (c) solid biomass was obtained from a former wetland area if the land—
 - (i) was a wetland area at any time during January 2008, and
 - (ii) was not a wetland area when the solid biomass was obtained from it.

PART 2

Land criteria for solid biomass which is wood or wholly derived from wood, excluding energy crops

2. Solid biomass which is wood or wholly derived from wood (except energy crops) meets the land criteria if—

- (a) at least 70% of the consignment was obtained from a sustainable source,
- (b) where more than one consignment is used in a quarter, at least 70% of the solid biomass used was obtained from a sustainable source, or
- (c) the solid biomass was certified under an environmental quality assurance scheme which ensures that at least 70% of the solid biomass certified by that scheme was obtained from a sustainable source.

3.—(1) For the purposes of paragraph 2, solid biomass which is wood or wholly derived from wood (except energy crops) is obtained from a sustainable source if it—

- (a) was grown within an area of forest or of other land which is managed—
 - (i) in a way that is consistent with—
 - (aa) the Forest Europe Sustainable Forest Management Criteria, or
 - (bb) a set of international principles for the sustainable management of land which meet the requirements specified in sub-paragraph (2), and
 - (ii) to meet the requirements specified in sub-paragraph (4),
- (b) was residue from arboriculture carried out in an area which was not a forest, or
- (c) was removed for the purpose of creating, restoring or maintaining the ecosystem of an area which was not a forest.

(2) The requirements specified in this sub-paragraph are that—

- (a) the principles have been adopted following a process (“the principle-setting process”) which sought to—
 - (i) obtain a balanced representation of the views of interest groupings,
 - (ii) ensure that no single interest grouping could dominate the principle-setting process, and
 - (iii) ensure that no decision on the contents of the principles could be made in the absence of agreement from a majority within each interest grouping involved in the principle-setting process, and
- (b) the principles can be changed by a process (“the change process”) which seeks to ensure that—
 - (i) no single interest grouping can dominate the change process, and
 - (ii) no decision on changes to the principles can be made in the absence of agreement from a majority within each interest grouping involved in the change process.

(3) For the purposes of sub-paragraph (2), each of the following is an interest grouping in relation to an area of forest or of other land where the solid biomass was grown—

- (a) persons with interests which are predominantly economic in nature,
- (b) persons with interests which are predominantly environmental in nature,
- (c) persons with interests which are predominantly social in nature.

(4) The requirements specified in this sub-paragraph are—

- (a) harm to ecosystems is minimised, in particular by—
 - (i) assessing the impacts of the extraction of wood from the area and adopting plans to minimise any negative impacts,
 - (ii) protecting soil, water and biodiversity,
 - (iii) controlling the use of chemicals and ensuring that chemicals are used in an appropriate way,
 - (iv) wherever possible, using integrated pest management, and
 - (v) disposing of waste in a manner that minimises any negative impacts,
 - (b) the productivity of the area is maintained, in particular by—
 - (i) adopting plans to avoid significant negative impacts on productivity,
 - (ii) adopting procedures for the extraction of wood that minimise the impact on other uses of the area,
 - (iii) providing for all of the contractors and workers who are working in the area to be adequately trained in relation to the maintenance of productivity, and
 - (iv) maintaining an adequate inventory of the trees in the area (including data on the growth of the trees and on the extraction of wood) so as to ensure that wood is extracted from the area at a rate which does not exceed its long-term capacity to produce wood,
 - (c) compliance with the requirement specified in paragraph (b) is monitored, the results of that monitoring are reviewed and planning is updated accordingly,
 - (d) the health and vitality of ecosystems is maintained, in particular by—
 - (i) adopting plans to maintain or increase the health and vitality of ecosystems,
 - (ii) adopting plans to deal with natural processes or events such as fires, pests and diseases, and
 - (iii) taking adequate measures to protect the area from unauthorised activities such as illegal logging, mining and encroachment,
 - (e) biodiversity is maintained, in particular by—
 - (i) implementing safeguards to protect rare, threatened and endangered species,
 - (ii) conserving key ecosystems in their natural state, and
 - (iii) protecting features and species of outstanding or exceptional value,
 - (f) those responsible for the management of the area (and any contractors engaged by them) comply with local and national laws relating to health and safety and the welfare of workers,
 - (g) those responsible for the management of the area have regard to—
 - (i) legal, customary and traditional rights of tenure and land use,
 - (ii) mechanisms for resolving grievances and disputes including those relating to tenure and land use rights, forest or land management practices and working conditions, and
 - (iii) safeguarding the health and safety and rights of workers, and
 - (h) there is regular assessment of the extent to which those responsible for the management of the area have met the requirements specified in paragraphs (a) to (g).
4. Material added to solid biomass for an exempt purpose is disregarded for the purposes of paragraph 2.
5. For the purposes of paragraph 3—

Status: This is the original version (as it was originally made).

- (a) “integrated pest management” means careful consideration of all available plant protection methods and subsequent integration of appropriate measures that discourage the development of populations of harmful organisms and keep the use of plant protection products and other forms of intervention to levels that are economically and ecologically justified and reduce or minimise risks to human health and the environment,
- (b) “Forest Europe Sustainable Forest Management Criteria” means the criteria for sustainable forest management in Lisbon Resolution L2 of the third Ministerial conference on the Protection of Forests in Europe held in June 1998⁽¹⁾.

PART 3

Land criteria for other solid biomass including energy crops

- 6.** Solid biomass which is not wood or derived wholly from wood, or which is an energy crop, meets the land criteria if it—
- (a) was not obtained from a protected source,
 - (b) was an energy crop in respect of which financial assistance was paid under the Energy Crops Regulations 2000⁽²⁾ or under an equivalent financial assistance scheme, or
 - (c) was residue (other than residue from agriculture, aquaculture, fisheries or forestry).
- 7.** Material added to solid biomass for an exempt purpose is disregarded for the purposes of paragraph 6.
- 8.** Solid biomass is obtained from a protected source if it is obtained from—
- (a) land which at any time during or after January 2008 was primary forest,
 - (b) except where paragraph 9 applies, land which at any time during or after January 2008 was designated for nature protection purposes,
 - (c) highly biodiverse grassland unless harvesting is necessary to preserve the grassland status,
 - (d) except where paragraph 10 applies, land which at any time during January 2008 was peatland,
 - (e) a former continuously forested area, or
 - (f) a former wetland area.
- 9.** This paragraph applies if the production of the solid biomass did not interfere with the nature protection purposes for which the land was designated.
- 10.** This paragraph applies if the cultivation and harvesting of the solid biomass did not involve the drainage of previously undrained soil.

(1) Lisbon Resolution L2 is entitled “Pan-European Criteria, Indicators and Operational Level Guidelines for Sustainable Forest Management”. Copies are available at http://www.foresteuropa.org/ministerial_conferences/lisbon1998.

(2) S.I.2000/3042, revoked by S.I. 2014/3263.