



STATUTORY INSTRUMENTS.

S.I. No. 680 of 2022

EUROPEAN UNION (RENEWABLE ENERGY) (AMENDMENT)
REGULATIONS 2022

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I, EAMON RYAN, Minister for the Environment, Climate and Communications, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Renewable Energy) (Amendment) Regulations 2022.

Interpretation

2. (1) In these Regulations –

“Directive” means Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018¹;

“Regulations of 2022” means the European Union (Renewable Energy) Regulations (2) 2022 (S.I. No. 350 of 2022).

(2) A word or expression that is used in these Regulations and is also used in the Directive has, unless the context requires otherwise, the same meaning in these Regulations as it has in the Directive.

Amendment of National Oil Reserves Agency Act 2007

3. (1) Part 5A of the National Oil Reserves Agency Act 2007 (No. 7 of 2007) is amended –

(a) by substituting for section 44C the following:

“Renewable transport fuel obligation

44C.— (1) This section applies to relevant disposals of road transport fuel in respect of which, in the obligation period concerned, an oil company or an oil consumer, as the case may be, is liable to pay the levy—

(a) whether or not the levy has been paid, and

(b) in the case of an oil consumer, whether or not the oil consumer is exempt from, or has claimed an exemption from, the levy in accordance with section 38.

¹ OJ No. L 328, 21

(2) Every oil company and oil consumer liable to pay the levy (in this Part referred to as an ‘obligated party’) is required to ensure that in each obligation period not less than a specified amount of its relevant disposal of road transport fuel to which this section applies is renewable transport fuel (in this Part referred to as the ‘renewable transport fuel obligation’).

(3) The specified amount, referred to in subsection (1), for the purpose of determining the renewable transport fuel obligation, shall be expressed in megajoules and shall be calculated by reference to—

- (a) the relevant disposals of petroleum products by each obligated party during the obligation period concerned, and
- (b) the percentage rates provided for by section 44D(1).

(4) The renewable transport fuel obligation referred to in subsection (3) encompasses –

- (a) the contribution from advanced biofuels and biogas (in this Part referred to as the ‘advanced biofuel obligation’);
- (b) the contribution from biofuels and biogas produced from food and feed crops which shall be no more than 2% (in this Part referred to as the ‘crop cap’);
- (c) the percentage reduction (no later than 31 December 2030, to 0% supply) in the amount of supply from biofuels and biogas produced from high indirect land-use change-risk (in this Part referred to as ‘high ILUC-risk’) feedstocks as referred to under subsection (5).
- (d) The percentage rates shall be those provided for by section 44D(1).

(5) The renewable transport fuel obligation referred to in subsection (3) also encompasses the contribution of supply of biofuels and biogas produced from high ILUC-risk feedstock, which shall be no more than the amount disposed of in 2019 and may only be disposed of by the oil companies or oil consumers that disposed of such biofuels and biogas in 2019.”,

(b) by substituting for section 44D the following:

“Rate of renewable transport fuel obligation, advanced biofuel obligation, crop cap and high ILUC-risk biofuel

44D.— (1) The percentage rates referred to in sections 44C(3)(b) and 44C(4) shall be such percentage as stands specified by order under subsection (2).

(2) The Minister may, from time to time, review the percentage rates provided for by subsection (1) and may, subject to this section, having considered any representations made under subsection (4)(a), by order provide for percentage rates in lieu of the percentage rates provided for by subsection (1).

(3) For the purposes of a review under this section the Minister shall have regard to—

- (a) the effect of the renewable transport fuel obligation, the advanced biofuel obligation, crop cap and high-ILUC-risk on fuel prices in the State,
- (b) the reports required to be submitted to the Commission of the European Communities on progress in the promotion and use of energy from renewable sources pursuant to Article 30(3) of the Directive, and
- (c) the reports required to be submitted by the Commission of the European Communities to the European Parliament and the Council pursuant to Article 33 of the Directive,

and may have regard to such other matters as he or she considers appropriate relating to the effects, if any, of increased consumption of renewable transport fuel in the State on economic activities in the State and on the environment.

- (4) (a) Before making an order under subsection (2), the Minister, following consultation with the persons specified in paragraph (b), shall publish a draft of the proposed order on the internet and by such other means as the Minister considers appropriate inviting persons to make representations in writing to the Minister in relation to the proposed order within 28 days from the date of publication on the internet.
- (b) For the purposes of paragraph (a), the Minister shall consult with—
 - (i) the Minister for Finance,
 - (ii) the Minister for Public Expenditure and Reform,
 - (iii) the Minister for Transport,
 - (iv) the Agency,
 - (v) the Environmental Protection Agency,
 - (vi) the National Standards Authority of Ireland, and

(vii) The Sustainable Energy Authority of Ireland,

and may consult with such other persons as the Minister considers appropriate.”;

- (c) in section 44G by substituting the following for subsection (1A)(1):

“(1A) the Minister may make regulations setting out the amount of certificates applicable under 44G(1) to certain other renewable transport fuels which the Minister may specify, according to a hierarchy of use, which the Minister may from time to time review and amend.”, and

- (d) in section 44I by inserting the following after subsection (2):

“(2A) At the end of the 2022 obligation period, the Agency may carry out a calculation as it sees fit and determine the conversion rate applied to certificates expressed in litres held for the 2022 period and the previous periods into certificates expressed in megajoules, for the purposes of determining certificates pursuant to subsection (6)(c).”.

Amendment of European Union (Biofuel Sustainability Criteria) Regulations 2012

4. The European Union (Biofuel Sustainability Criteria) Regulations 2012 (S.I. No.33 of 2012) are amended by substituting for Regulations 7E to 7G the following:

“7E (1) Subject to paragraphs (2) and (3), a document that is required to be given to a person by these Regulations shall be addressed to the person concerned by name, and may be so given to the person in one or more of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person carries on business or ordinarily resides or, in a case in which an address for service has been furnished, at that address;
- (c) by sending it by post in a prepaid registered letter to the address at which the person carries on business or ordinarily resides or, in a case in which an address for service has been furnished, to that address;
- (d) where there is a facility for receiving the text of the notice by electronic means at the address at which the person carries on business or ordinarily resides, by transmitting the text of the notice by such means to such address, provided that the notice is also delivered in any of the other ways referred to in this paragraph;
- (e) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the notice relates

to a premises, by delivering it to the premises or by affixing it in a conspicuous position on or near the premises.

(2) Where a document under these Regulations is to be given to a person who is the owner or occupier of land or property and the name of the person cannot be ascertained by reasonable inquiry, it may be addressed to the person by using the words “the owner” or, as the case may require, “the occupier”.

(3) For the purposes of this Regulation, a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(4) Where an opinion, finding, statement or decision of the Agency is contained in a document which—

(a) purports to have been made by or at the direction of the Agency, and

(b) is produced in evidence by the Agency in any proceedings, such document shall be admissible in evidence and shall be evidence of any such opinion, finding, statement or decision in such proceedings without further proof.

7F (1) For the purposes of Regulation 5(1), the Agency shall satisfy itself that the information supplied to it by an account holder under an application under section 44G of the Act complies with the obligation on an economic operator under the first and fourth subparagraphs of Article 25 (1) of the Directive, pursuant to Article 29.

7G (1) The renewable transport fuel obligation account holder, as the obligated party pursuant to the first and fourth subparagraphs of Article 25 (1) of the Directive, pursuant to Article 29 shall enter the information into the Union database referred to in Article 28 (2) of the Directive.

7H (1) The function concerning supervision of certification bodies as prescribed under the Directive for the purposes of the first and fourth subparagraphs of Article 25 (1) of the Directive pursuant to Article 29 is conferred on the Agency.

(2) Within the State’s remit as set out under Article 17 of Implementing Act 2022/9966 and as referred to in Article 30 (8) of the Directive, the Agency shall establish and maintain a process for supervising certification bodies and shall supervise the operation of certification bodies that are conducting independent auditing under voluntary schemes.

(3) A certification body referred to in paragraph (1) shall submit, upon the request of the Agency, all relevant information necessary to supervise its activities with respect to the independent audit of account

holders in meeting the obligation of the first and fourth subparagraphs of Article 25 (1) of the Directive, pursuant to Article 29.

(4) Where the Agency finds issues of non-conformity, they shall inform the relevant voluntary scheme without delay.”.

Amendment of Regulations of 2022, Schedule 2

5. Schedule 2 to the Regulation of 2022 is amended, in paragraph (2)(e), by deleting “by 2030”.

GIVEN under my Official Seal,
16 December, 2022.

EAMON RYAN,
Minister for the Environment,
Climate and Communications.



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