



STATUTORY INSTRUMENTS.

S.I. No. 693 of 2023

EUROPEAN UNION (RENEWABLE ENERGY) REGULATIONS 2023

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I, EAMON RYAN, Minister for Transport, 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 Articles 25, 26 and 29 of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018¹, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Renewable Energy) Regulations 2023.

2. (1) These Regulations, other than Regulation 3(e), shall come into operation on 1 January 2024.

(2) Regulation 3(e) shall come into operation on 31 December 2023.

3. The National Oil Reserves Agency Act 2007 (No. 7 of 2007) is amended -

- (a) in section 2, by the deletion, in the definition of “prescribed”, of “44D,”;
- (b) in section 44A -
 - (i) by the substitution, in the definition of “Advanced biofuels”, of “advanced” for “Advanced”,
 - (ii) by the substitution, in the definition of “Advanced biofuel obligation”, of “advanced” for “Advanced”,
 - (iii) by the insertion, after the definition of “biomass”, of the following definitions:
 - “certified”, other than in section 44V, means certified in accordance with section 44G;
 - ‘crop cap’ has the meaning assigned by section 44C;”,
 - (iv) by the insertion, after the definition of “expenses”, of the following definitions:
 - “high ILUC-risk” has the meaning assigned by section 44C;
 - ‘high ILUC-risk cap’ has the meaning assigned by section 44C;”,
 - (v) by the substitution, in the definition of “obligation period”, of “renewable transport fuel obligation” for “biofuel obligation”,

¹ OJ No. L.328, 21.12.2018, p.82.

- (vi) by the substitution, in the definition of “relevant disposal of road transport fuel”, of “the energy content of road transport fuel (calculated in accordance with paragraph (b) of Article 7(4) of the Directive and expressed in megajoules)” for “the volume (expressed in litres) of road transport fuel”, and
- (vii) by the substitution of the following definition for the definition of “renewable transport fuel”:

“‘renewable transport fuel’ means liquid or gaseous fuel (including biofuels, biogas, recycled carbon fuels, advanced biofuels and renewable liquid and gaseous transport fuel of non-biological origin) used in the transport sector;”,
- (c) in section 44C -
 - (i) by the substitution of the following subsection for subsections (3) and (4) -

“(3) The specified amount referred to in subsection (2) shall be expressed in megajoules and shall amount to no less than the applicable percentage, specified in section 44D for the obligation period concerned, of the total relevant disposal of road transport fuel concerned, and such specified amount shall include certified disposals of -

 - (a) advanced biofuels and biogas that, in total, amount to no less than the applicable percentage, specified in section 44D, of the total relevant disposal of road transport fuel concerned (in this Part referred to as the ‘advanced biofuel obligation’),
 - (b) biofuels and biogas produced from food and feed crops that, in total, amount to no greater than the applicable percentage, specified in section 44D, of the total relevant disposal of the road transport fuel concerned (in this Part referred to as the ‘crop cap’), and
 - (c) biofuels and biogas produced from high indirect land-use change-risk (in this Part referred to as ‘high ILUC-risk’) feedstock that, in total, amount to no greater than the applicable percentage, specified in section 44D, of the total relevant disposal of the road transport fuel concerned (in this Part referred to as the ‘high ILUC-risk cap’).”, and

(ii) by the deletion of subsection (5),
 - (d) by the substitution of the following section for section 44D:

“44D. The percentage rate that applies for the obligation period beginning on 1 January 2024 and ending on 31 December 2024 shall -

- (a) in respect of the renewable transport fuel obligation, be 21 per cent,
- (b) in respect of the advanced biofuel obligation, be one per cent,
- (c) in respect of the crop cap, be 2.3 per cent, and
- (d) in respect of the high ILUC-risk cap, be 90 per cent of the total certified disposal of biofuels and biogas produced from high ILUC-risk feedstock that were, during the period beginning on 1 January 2019 and ending on 31 December 2019, supplied by a renewable transport fuel obligation account holder.”,
- (e) by the insertion, after section 44D, of the following section:

“Prohibition on certification of supply of certain biofuels and biogas”

44DA. (1) Subject to subsection (2), a renewable transport fuel obligation account holder shall not, during the period beginning on 31 December 2023 and ending on 31 December 2030, be awarded a certificate under section 44G in respect of any supply by that account holder of biofuels and biogas produced from high ILUC-risk feedstock.

(2) Where a renewable transport fuel obligation account holder supplied, during the period beginning on 1 January 2019 and ending on 31 December 2019, certified biofuels and biogas produced from high ILUC-risk feedstock, that account holder may be awarded a certificate in accordance with section 44G in respect of supply during a relevant period by it of such biofuels and biogas that amounts, in total, to no greater than 90 per cent of the total supply of such biofuels and biogas by it during the period beginning on 1 January 2019 and ending on 31 December 2019.

- (3) In this section, ‘relevant period’ means -
 - (a) the period beginning on 31 December 2023 and ending on 31 December 2024, and
 - (b) each period of 12 months thereafter that occurs during the period beginning on 1 January 2025 and ending on 31 December 2030.”,
- (f) in section 44Y(2), by the substitution of “the said subsection (3) of section 44C” for “*paragraph (a)* of that subsection”, and
- (g) in section 58A, by the deletion of “44D,” in each place where it occurs.

4. The European Union (Renewable Energy) Regulations (2) 2022 (S.I. No. 350 of 2022) are amended, in Regulation 4(1), by the substitution of “when determining the appropriate percentage to be specified for the purposes of subsection (3) of section 44C of the Act of 2007” for “in making an order under section 44D subsection (2)(a) of the Act of 2007”.

GIVEN under my Official Seal,
21 December, 2023.

EAMON RYAN,
Minister for Transport.



EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These regulations are made under section 3 of the European Communities Act 1972 and come into effect on 1 January 2024, other than regulation 3(e) which comes into operation on 31 December 2023. The purpose of these Regulations is to amend Part 5A of the National Oil Reserves Agency Act 2007 (No. 7 of 2007) within sections 2, 44A, 44C, 44D, 44Y and 58A to give effect to Articles 25, 26 and 29 of Directive (EU) 2018/2001.

The amendment to section 44D of the principal Act sets the percentage rates that apply for the 2024 renewable transport fuel obligation period by establishing the renewable transport fuel obligation as being 21 per cent, the advanced obligation as being one per cent, the crop cap as being 2.3 per cent and the high ILUC-risk cap as being 90 per cent of the total certified disposal of biofuels and biogas produced from high ILUC-risk feedstock supplied during the 2019 obligation period by a renewable transport fuel account holder referred to under subsection (2) of section 44DA inserted by these regulations.

The regulations insert section 44DA into the principal Act after section 44D. Effective from 31 December 2023, this provision prohibits the award of renewable transport fuel certificates for the supply of biofuels and biogas that are produced from high ILUC-risk feedstock by renewable fuel account holders and obligated parties. Subsection (2) of section 44DA provides for an exception that renewable transport fuel certificates can be awarded for supply of biofuels and biogas that were produced from high ILUC-risk feedstock by renewable transport fuel account holders who supplied it in the 2019 obligation period, up to an amount no more than 90% of the supply in 2019 by the renewable transport fuel account holder.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8,
D08 XAO6

Tel: 046 942 3100
r-phost: publications@opw.ie

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