

L.N. 263 of 2017

**REGULATOR FOR ENERGY AND WATER SERVICES ACT
(CAP. 545)**

**Promotion of Energy from Renewable Sources (Amendment)
Regulations, 2017**

IN EXERCISE of the powers conferred by article 37(1) of the Regulator for Energy and Water Services Act, the Minister responsible for Energy and Water Management, after consultation with the Regulator for Energy and Water Services, has made the following regulations:

1. (1) The title of these regulations is the Promotion of Energy from Renewable Sources (Amendment) Regulations, 2017, and these regulations shall be read and construed as one with the Promotion of Energy from Renewable Sources Regulations, hereinafter referred to as "the principal regulations".

Title and entry into force.
S.L.545.11.

(2) These regulations transpose to Article 3(1), (4), (5) and Article 6(1), (2) of Directive 2009/28/EC, as amended by Directive (EU) 2015/1513.

(3) These regulations shall come into force on the 10 September 2017.

2. In regulation 3 of the principal regulations immediately after the words "renewable sources of 10%", there shall be added the following new words:

Amends regulation 3 of the principal regulations.

"For the purpose of compliance with the aforesaid target, the maximum joint contribution from biofuels and bioliquids produced from cereal and other starch-rich crops, sugars and oil crops and from crops grown as main crops primarily for energy purposes on agricultural land shall be no more than the energy quantity corresponding to the maximum contribution as set out in paragraph (d) of regulation 4".

3. Regulation 4 of the principal regulations shall be amended as follows:

Amends regulation 4 of the principal regulations.

(a) paragraph (a) thereof shall be substituted by the following new paragraph:

"(a) for the calculation of the denominator, that is the total amount of energy consumed in transport for the purposes of the share of energy from renewable sources in

all forms of transport in 2020, only petrol, diesel, biofuels consumed in road and rail transport, and electricity, including electricity used for the production of renewable liquid and gaseous transport fuels of non-biological origin, shall be taken into account;"

(b) in paragraph (b) thereof, immediately after the words "shall be taken into account" there shall be added the following new words:

S.L. 545.28.

".This paragraph shall be without prejudice to paragraph (d) of this regulation and regulation 3(1)(a) of the Biofuels (Sustainability Criteria) Regulations, 2010;"

(c) paragraph (c) thereof shall be substituted by the following new paragraph:

"(c) for the calculation of the contribution from electricity produced from renewable sources and consumed in all types of electric vehicles and for the production of renewable liquid and gaseous transport fuels of non-biological origin for the purpose of paragraphs (a) and (b), the Minister may choose to use either the average share of electricity from renewable energy sources in the Union or the share of electricity from renewable energy sources in Malta as measured two years before the year in question. Furthermore, for the calculation of the electricity from renewable energy sources consumed by electrified rail transport, that consumption shall be considered to be 2,5 times the energy content of the input of electricity from renewable energy sources. For the calculation of the electricity from renewable energy sources consumed by electric road vehicles in paragraph (b), that consumption shall be considered to be five times the energy content of the input of electricity from renewable energy sources.";

(d) immediately after paragraph (c) as amended, there shall be added the following new paragraphs:

"(d) for the calculation of biofuels in the numerator, the share of energy from biofuels produced from cereal and other starch-rich crops, sugars and oil crops and from crops grown as main crops primarily for energy purposes on agricultural land shall be no more than 7 % of the final consumption of energy in transport in Malta in 2020:

Provided that, biofuels produced from feedstocks listed in part H and Part I of the Schedule to the Biofuels (Sustainability Criteria) Regulations shall not count towards the aforesaid limit: S.L. 545.28.

Provided further that the Minister may decide that the share of energy from biofuels produced from crops grown as main crops primarily for energy purposes on agricultural land, other than cereal and other starch-rich crops, sugars and oil crops, shall not count towards the aforesaid limit:

Provided also that:

(i) verification of compliance with the sustainability criteria set out in sub-regulations (2) to (5) of regulation 3 of the Biofuels (Sustainability Criteria) Regulations, 2010 was carried out in accordance with regulation 4 of the aforesaid regulation; and S.L. 545.28.

(ii) those crops which were grown on land that falls under item 8 of part C of the Schedule to the Biofuels (Sustainability Criteria) Regulations and the corresponding bonus "eB" set out in item 7 of part C of the Schedule to the aforementioned regulations was included in the calculation of greenhouse gas emissions, for the purposes of showing compliance with regulation 3(2) of the Biofuels (Sustainability Criteria) Regulations; S.L.545.28.

(e) the Minister shall seek to achieve the objective of there being a minimum level of consumption in Malta of biofuels produced from feedstocks and of other fuels, listed in part H of the Schedule to the Biofuels (Sustainability Criteria) Regulations. To that effect, a reference value for the national target is set at 0,5 percentage points in energy content of the share of energy from renewable sources in all forms of transport in 2020 referred to in paragraph (a), to be met with biofuels produced from feedstocks and with other fuels, listed in part H of the Schedule to the Biofuels (Sustainability Criteria) Regulations. In addition, biofuels made from feedstocks not listed in part H and Part I of the aforesaid regulations that were determined to be wastes, residues, non-food cellulosic material or ligno-cellulosic material by the competent national authorities and are used in existing installations prior to the adoption of Directive (EU) 2015/1513 of the European Parliament and of the Council, may be counted towards the national target. S.L. 545.28.

The Minister may set a national target lower than the reference value of 0,5 percentage points, based on one or more of the following grounds:

S.L. 545.28. (i) objective factors such as the limited potential for the sustainable production of biofuels produced from feedstocks and of other fuels, listed in part H of the Schedule to the Biofuels (Sustainability Criteria) Regulations, or the limited availability of such biofuels at cost-efficient prices on the market;

(ii) the specific technical or climatic characteristics of the national market for transport fuels, such as the composition and condition of the road vehicle fleet; or

(iii) national policies allocating commensurate financial resources to incentivising energy efficiency and the use of electricity from renewable energy sources in transport.

The Minister shall review the target by 1 July 2019 taking into consideration the market forces listed in paragraphs (i) to (iii).

S.L. 545.28. When setting Malta's national targets, the Minister shall provide available information on the quantities of biofuels consumed from feedstocks and other fuels, listed in part H of the Schedule to the Biofuels (Sustainability Criteria) Regulations.

S.L. 545.28. When setting policies for the promotion of the production of fuels from feedstocks listed in part H and Part I of the Schedule to the Biofuels (Sustainability Criteria) Regulations, the Minister shall have due regard to the waste hierarchy as established in Article 4 of Directive 2008/98/EC, including its provisions regarding life-cycle thinking on the overall impacts of the generation and management of different waste streams.

S.L. 545.28. (f) biofuels produced from feedstocks listed in Part H and Part I of the Schedule to the Biofuels (Sustainability Criteria) Regulations shall be considered to be twice their energy content for the purpose of complying with the target set out in regulation 4."

4. Immediately after regulation 4 of the principal regulations as amended, there shall be added the following new regulation:

Adds new regulation 4A to the principal regulations.

"Strengthening of cooperation."

4A. With a view to minimising the risk of single consignments being claimed more than once in the Union, the Minister shall endeavour to strengthen cooperation among national systems and between national systems and voluntary schemes established pursuant to regulation 4 of the Biofuels (Sustainability Criteria) Regulations, including where appropriate the exchange of data. To prevent materials from being intentionally modified or discarded in order to fall under Part H and Part I of the Schedule to the Biofuels (Sustainability Criteria) Regulations, the Minister shall encourage the development and use of systems which track and trace feedstocks and the resulting biofuels over the whole value chain. The Agency shall ensure that when fraud is detected, appropriate action is taken. The Minister shall by the 31st December 2017, and every two years thereafter, report to the Commission on the measures taken if they have not provided equivalent information on reliability and protection against fraud in the reports on progress in the promotion and use of energy from renewable sources drawn up in accordance with Article 22(1)(d) of Directive 2009/28/EC."

S.L. 545.28.

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5. In regulation 10 of the principal regulations, sub-regulations (1) and (2) shall be substituted by the following new sub-regulations:

Amends regulation 10 of the principal regulations.

"(1) The Agency may recommend to the Minister to make arrangements for the statistical transfer of a specified amount of energy from renewable sources from Malta to another Member State, or from another Member State to Malta, as the case may be. The transferred quantity shall be:

(a) deducted from the amount of energy from renewable sources that is taken into account in measuring compliance by the Member State making the transfer with the requirements of regulation 3, regulation 4 and regulation 9; and

(b) added to the amount of energy from renewable sources that is taken into account in measuring compliance by another Member State accepting the transfer with the requirements of regulation 3 and regulation 9.

(2) The arrangements referred to in sub-regulation (1) of this regulation in respect of regulation 3, regulation 4 and regulation 9 may have a duration of one or more years. They shall be notified by the Minister to the Commission not later than three months after the end of each year in which they have effect. The information sent to the Commission shall include the quantity and price of the energy involved."
