



STATUTORY INSTRUMENTS.

**S.I. No. 350 of 2022**



EUROPEAN UNION (RENEWABLE ENERGY) REGULATIONS (2) 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 effect to Articles 2, 3, 15(2), 16, 17, 18, 19, 23, 24, 25, 26, 27, 28, 29, 30 and 31 of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018<sup>1</sup>, hereby make the following regulations:

***Citation and commencement***

1. (1) These Regulations may be cited as the European Union (Renewable Energy) Regulations (2) 2022.

(2) These Regulations shall come into operation on 15 July 2022.

***Interpretation***

2. (1) In these Regulations (including the Schedules), except where the context otherwise requires –

“Act of 1999” means Electricity Regulation Act 1999 (No. 23 of 1999);

“Act of 2002” means Gas (Interim) (Regulation) Act 2002 (No. 10 of 2002);

“Act of 2007” means National Oil Reserves Agency Act 2007 (No. 7 of 2007);

“actual value” means the greenhouse gas emissions savings for some or all of the steps of a specific biofuel, bioliquid or biomass fuel production process, calculated in accordance with the methodology laid down in Part C of Annex V or Part B of Annex VI of the Directive;

“advanced biofuels” means biofuels that are produced from the feedstock listed in Part A of Annex IX of the Directive;

“agricultural biomass” means biomass produced from agriculture;

“agricultural, aquaculture, fisheries and forestry residues” means residues that are directly generated by agriculture, aquaculture, fisheries and forestry and that do not include residues from related industries or processing;

“ambient energy” means naturally occurring thermal energy and energy accumulated in the environment with constrained boundaries, which can be

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<sup>1</sup> OJ No. L 328, 21.12.2018, p. 82.

stored in the ambient air, excluding in exhaust air, or in surface or sewage water;

“Agency” means the National Oil Reserves Agency referred to in section 7(1) of the Act of 2007;

“biofuels” means liquid fuel for transport produced from biomass;

“biogas” means gaseous fuels produced from biomass;

“bioliquids” means liquid fuel for energy purposes other than for transport, including electricity and heating and cooling, produced from biomass;

“biomass fuels” means gaseous and solid fuels produced from biomass;

“biomass” means the biodegradable fraction of products, waste and residues from biological origin from agriculture, including vegetal and animal substances, from forestry and related industries, including fisheries and aquaculture, as well as the biodegradable fraction of waste, including industrial and municipal waste of biological origin;

“biowaste” means biowaste as defined in point (4) of Article 3 of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008<sup>2</sup> on waste and repealing certain Directives;

“Commission” means the Commission for Regulation of Utilities established by section 8 of the Act of 1999;

“default value” means a value derived from a typical value by the application of pre-determined factors and that may, in circumstances specified in the Directive, be used in place of an actual value;

“Directive” means Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources;

“district heating” or “district cooling” means the distribution of thermal energy in the form of steam, hot water or chilled liquids, from central or decentralised sources of production through a network to multiple buildings or sites, for the use of space or process heating or cooling;

“efficient district heating and cooling” means efficient district heating and cooling as defined in point (41) of Article 2 of Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012<sup>3</sup> on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC;

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<sup>2</sup> OJ No. L312, 22.11.2008, p. 3.

<sup>3</sup> OJ No. L 315, 14.11.2012, p.1.

“electricity generator” means a person licensed under section 14(1)(a) of the Act of 1999;

“Energy Efficiency Regulations” means the European Union (Energy Efficiency) Regulations 2014 (S.I. No. 426 of 2014);

“energy from renewable sources” or “renewable energy” means energy from renewable non-fossil sources, namely wind, solar (solar thermal and solar photovoltaic) and geothermal energy, ambient energy, tide, wave and other ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas, and biogas;

“energy storage” means, in the electricity system, deferring the final use of electricity to a moment later than when it was generated, or the conversion of electrical energy into a form of energy which can be stored, the storing of such energy, and the subsequent reconversion of such energy into electrical energy or use as another energy carrier;

“energy storage facility” means, in the electricity system, a facility where energy storage occurs;

“European Standards Organisation” means an organisation listed in Annex I of Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012<sup>4</sup> on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council;

“final customer” means a customer who purchases electricity for own use;

“food and feed crops” means starch-rich crops, sugar crops or oil crops produced on agricultural land as a main crop excluding residues, waste or ligno-cellulosic material and intermediate crops, such as catch crops and cover crops, provided that the use of such intermediate crops does not trigger demand for additional land;

“forest biomass” means biomass produced from forestry;

“forest regeneration” means the re-establishment of a forest stand by natural or artificial means following the removal of the previous stand by felling or as a result of natural causes, including fire or storm;

“fuel supplier” means an entity supplying fuel to the market that is responsible for passing fuel through an excise duty point or, in the case of electricity or where no excise is due or where duly justified, any other relevant entity designated by a Member State;

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<sup>4</sup> OJ L 316 14.11.2012, p. 12.

“geothermal energy” means energy stored in the form of heat beneath the surface of solid earth;

“gross final consumption of energy” means the energy commodities delivered for energy purposes to industry, transport, households, services including public services, agriculture, forestry and fisheries, the consumption of electricity and heat by the energy branch for electricity, heat and transport fuel production, and losses of electricity and heat in distribution and transmission;

“gas distribution system” means the distribution system referred to in section 16(1) of the Act of 2002;

“gas supplier” means a person licensed under section 16(1)(a) or (b) of the Act of 2002;

“gas supply” has the meaning assigned to “supply” in section 2(1) of the Act of 2002;

“gas transmission system” means the transmission system referred to in section 16(1) of the Act of 2002;

“gas transportation system” in relation to gas means the gas transmission system and gas distribution system owned and operated by GNI;

“GNI” means Gas Networks Ireland which is the licenced asset owner and asset operator for the Natural Gas Transmission and Distribution networks under section 16 of the Act of 2002;

“guarantee of origin” means an electronic document which has the sole function of providing evidence to a final customer that a given share or quantity of energy was produced from renewable sources;

“guarantee of origin for electricity” means a guarantee of origin that relates to electricity produced from renewable sources;

“guarantee of origin for gas” means a guarantee of origin that relates to gas produced from renewable sources, including hydrogen produced from renewable sources;

“high-efficiency cogeneration” means high-efficiency cogeneration as defined in point (34) of Article 2 of Directive 2012/27/EU;

“Internal Market in Electricity Directive” means Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU;

“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;

“low indirect land-use change-risk biofuels, bioliquids and biomass fuels” means biofuels, bioliquids and biomass fuels, the feedstock of which was produced within schemes which avoid displacement effects of food and feed-crop based biofuels, bioliquids and biomass fuels through improved agricultural practices as well as through the cultivation of crops on areas which were previously not used for cultivation of crops, and which were produced in accordance with the sustainability criteria for biofuels, bioliquids and biomass fuels laid down in Schedule 3 of these Regulations;

“Minister” means Minister for the Environment, Climate and Communications;

“national scheme” means a national scheme recognised by the European Commission in accordance with Article 30(6) of the Directive;

“non-food cellulosic material” means feedstock mainly composed of cellulose and hemicellulose, and having a lower lignin content than ligno-cellulosic material, including food and feed crop residues, such as straw, stover, husks and shells; grassy energy crops with a low starch content, such as ryegrass, switchgrass, miscanthus, giant cane; cover crops before and after main crops; ley crops; industrial residues, including from food and feed crops after vegetal oils, sugars, starches and protein have been extracted; and material from biowaste, where ley and cover crops are understood to be temporary, short-term sown pastures comprising grass-legume mixture with a low starch content to obtain fodder for livestock and improve soil fertility for obtaining higher yields of arable main crops;

“Other wooded land” means land not classified as “primary forest”, spanning more than 0.5 hectares; with trees higher than 5 meters and a canopy cover of 5-10 percent, or trees able to reach these thresholds in situ; or with a combined cover of shrubs, bushes and trees above 10 percent. It does not include land that is predominantly under agricultural or urban land use;

“Primary forest” means naturally regenerated forest of native tree species, where there are no clearly visible indications of human activities and the ecological processes are not significantly disturbed;

“PSO generator” means a generator that is a recipient of support provided under a support scheme referred to in Regulation 3 of the European Union (Renewable Energy) Regulations 2020 (S.I. No. 365 of 2020), including but not limited to a party to a REFIT or AER Power Purchase Agreement listed in the Schedules to the Electricity Regulation Act 1999 (Public Service Obligations) Order 2002 (S.I. No. 217 of 2002);

“recycled carbon fuels” means liquid and gaseous fuels that are produced from liquid or solid waste streams of non-renewable origin which are not suitable for material recovery in accordance with Article 4 of Directive 2008/98/EC, or

from waste processing gas and exhaust gas of non-renewable origin which are produced as an unavoidable and unintentional consequence of the production process in industrial installations;

“Regulations of 2012” means European Union (Biofuel Sustainability Criteria) Regulations 2012 (S.I. No. 33 of 2012);

“Regulations of 2022” means the European Union (Renewable Energy) Regulations 2022 (S.I. No. 76 of 2022);

“Renewables self-consumer” means a final customer operating within its premises located within confined boundaries or where allowed by Member States, on other premises, who generates renewable electricity for its own consumption, and may store and sell self-generated renewable electricity, provided that, for non-household renewables self-consumers, those activities do not constitute their primary commercial or professional activity;

“renewable energy obligation” means a support scheme requiring energy producers to include a given share of energy from renewable sources in their production, requiring energy suppliers to include a given share of energy from renewable sources in their supply, or requiring energy consumers to include a given share of energy from renewable sources in their consumption, including schemes under which such requirements may be fulfilled by using green certificates;

“renewable liquid and gaseous transport fuels of non-biological origin” means liquid or gaseous fuels which are used in the transport sector other than biofuels or biogas, the energy content of which is derived from renewable sources other than biomass;

“residual energy mix” means the total annual energy mix for a Member State excluding the share covered by cancelled guarantees of origin;

“residue” means a substance that is not the end product(s) that a production process directly seeks to produce; it is not a primary aim of the production process and the process has not been deliberately modified to produce it;

“SEAI” means the Sustainable Energy Authority of Ireland established by section 4 of the Sustainable Energy Act 2002 (No. 2 of 2002);

“SEMO” has the meaning assigned to “Single Electricity Market Operator” by section 2(1) of the Act of 1999;

“sourcing area” means the geographically defined area from which the forest biomass feedstock is sourced, from which reliable and independent information is available and where conditions are sufficiently homogeneous to evaluate the risk of the sustainability and legality characteristics of the forest biomass;

“starch-rich crops” means crops comprising mainly cereals, regardless of whether the grains alone or the whole plant, such as in the case of green maize,

are used; tubers and root crops, such as potatoes, Jerusalem artichokes, sweet potatoes, cassava and yams; and corm crops, such as taro and cocoyam;

“support scheme” means any instrument, scheme or mechanism established by the Minister that promotes the use of energy from renewable sources by reducing the cost of that energy, increasing the price at which it can be sold, or increasing, by means of a renewable energy obligation or by other means, the volume of such energy purchased, and includes, but is not restricted to, investment aid, tax exemptions or tax reductions, tax refunds, renewable energy obligation support schemes including those using green certificates, and direct price support schemes including feed-in tariffs and sliding or fixed premium payments;

“third country” means a country that is not a Member State;

“typical value” means an estimate of the greenhouse gas emissions and greenhouse gas emissions savings for a particular biofuel, bioliquid or biomass fuel production pathway, which is representative of the Union consumption;

“voluntary scheme” means a voluntary national or international scheme recognised by the European Commission in accordance with Article 30(4) of the Directive;

“waste” means any substance or object which the holder discards or intends or is required to discard within the meaning of section 4(1) of the Waste Management Act 1996 (No. 10 of 1996) excluding any substances that have been intentionally modified or contaminated to meet that definition.

“waste heat and cold” means unavoidable heat or cold generated as by-product in industrial or power generation installations, or in the tertiary sector, which would be dissipated unused in air or water without access to a district heating or cooling system, where a cogeneration process has been used or will be used or where cogeneration is not feasible.

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

### **Calculation of share of energy from renewable sources**

3. (1) The SEAI shall calculate the share of energy from renewable sources by applying the methodology in Schedule 1, where applicable.

(2) The SEAI shall calculate the share of renewable energy within the final consumption of energy in the transport sector by applying the methodology in Schedule 2, where applicable.



**Minimum share of renewable energy within the final consumption of energy in the transport sector**

4. (1) The Minister shall, in making an order under section 44D subsection (2)(a) of the Act of 2007, seek to ensure that -

- (a) the share of renewable energy within the final consumption of energy in the transport sector referred to in Regulation 3(2) complies with the first and fourth subparagraphs of Article 25(1) of the Directive, with due regard to the fourth subparagraph of Article 26(1), and Article 27 (1)(a) of the Directive; and
- (b) the consumption in the State of biofuels and biogas is produced from feedstocks listed in Part A of Annex IX of the Directive and complies with the requirements of the first and second subparagraphs of Article 26(1) of the Directive.

**Support schemes and renewable energy obligations**

5. (1) Where a support scheme requires technical specifications which must be met by renewable energy equipment and systems in order for an applicant to benefit from the scheme, such specifications shall be clearly defined.

(2) Where European standards exist, including eco-labels, energy labels and other technical reference systems established by the European standardisation bodies, the technical specifications referred to in paragraph (1) shall be expressed in terms of those standards.

(3) The technical specifications referred to in paragraph (1) shall not prescribe where the equipment and systems are to be certified and should not impede the operation of the internal market of the European Union.

(4) It shall be a requirement of a support scheme or a renewable energy obligation that, where biofuels, bioliquids or biomass fuels are to benefit from a support scheme or contribute to compliance with a renewable energy obligation, they must fulfil the sustainability and greenhouse gas emissions savings criteria referred to in Regulation 6.

(5) The terms and conditions of a support scheme or renewable energy obligation shall not prohibit a participant, on other sustainability grounds, to use biofuels, bioliquids or biomass fuels obtained in compliance with the sustainability and greenhouse gas emissions savings criteria referred to in Regulation 6.

(6) The competent authority for a support scheme shall grant no support for renewable energy produced from the incineration of waste if the separate collection obligations laid down in Directive 2008/98/EC have not been complied with.

**Biofuels, bioliquids and biomass fuels meeting sustainability and greenhouse gas emissions saving criteria**

6. (1) Subject to paragraphs (2) to (10) and Regulations 11, 12, 13 and 14 of these Regulations and Regulations 6 and 7 of the Regulations of 2012, biofuels, bioliquids and biomass fuels are deemed to fulfil the sustainability and the greenhouse gas emissions savings criteria if they comply with paragraphs (1) to (8) of Schedule 3.

(2) Biofuels, bioliquids and biomass fuels produced from waste and residues, including waste and residues that are first processed into a product before being further processed into biofuels, bioliquids and biomass fuels, other than agricultural, aquaculture, fisheries and forestry residues, are required to fulfil only the greenhouse gas emissions savings criteria referred to in paragraph (7) of Schedule 3 if they are to be deemed to meet the sustainability and the greenhouse gas emissions saving criteria.

(3) Municipal solid waste used to produce electricity and heating and cooling shall not be subject to the greenhouse gas emissions saving criteria referred to in paragraphs (1) to (6) of Schedule 3.

(4) Biomass fuels used in installations producing electricity, heating and cooling or fuels with a total rated thermal input less than 20 MW in the case of solid biomass fuels, and with a total rated thermal input less than 2MW in the case of gaseous biomass fuels are deemed to fulfil the sustainability and greenhouse gas emissions saving criteria.

(5) The sustainability and the greenhouse gas emissions saving criteria referred to in Schedule 3 shall apply irrespective of the geographical origin of the biomass.

(6) Biomass fuels used to produce electricity shall be deemed to be compliant only if the electricity produced meets one or more of the following requirements -

- (a) it is produced in installations with a total rated thermal input below 50 MW;
- (b) for installations with a total rated thermal input from 50 to 100 MW, it is produced applying high-efficiency cogeneration technology, or, for electricity-only installations, meeting an energy efficiency level associated with the best available techniques (BAT-AEELs) as defined in Commission Implementing Decision (EU) 2017/1442<sup>5</sup>;
- (c) for installations with a total rated thermal input above 100 MW, it is produced applying high-efficiency cogeneration technology, or, for electricity-only installations, achieving a net-electrical efficiency of at least 36 %; or,
- (d) it is produced applying Biomass *CO*<sub>2</sub> Capture and Storage.

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<sup>5</sup> OJ L 212, 17.8.2017, p. 1–82.

(7) Biomass fuels used in electricity-only-installations shall be deemed to fulfil sustainability and the greenhouse gas emissions saving criteria only if they comply with paragraphs (1) to (8) of Schedule 3 and the installations do not use fossil fuels as a main fuel and only if there is no cost-effective potential for the application of high-efficiency cogeneration technology according to the assessment in accordance with Article 14 of Directive 2012/27/EU.

(8) Paragraphs (6) and (7) of this Regulation shall apply only to installations starting operation starting operation or converted to the use of biomass fuels after 25 December 2021.

(9) For the purposes of paragraph (8), paragraphs (6) and (7) shall be without prejudice to support granted under support schemes in accordance with Regulations 4 to 8 of the European Union (Renewable Energy) Regulations 2020 (S.I. 365 of 2020) approved by 25 December 2021.

(10) Only biofuels, bioliquids and biomass fuels deemed to fulfil the sustainability and greenhouse gas emissions savings criteria referred to in paragraph (1) shall be eligible for financial support.

#### **Bioliquids - verification of compliance with the sustainability and greenhouse gas emissions saving criteria**

7. (1) The competent authority for a support scheme or renewable energy obligation shall establish a procedure to verify that participants have demonstrated that bioliquids fulfil the sustainability and greenhouse gas emissions savings criteria referred to in Regulation 6.

(2) The competent authority for a support scheme or renewable energy obligation may, with the consent of the Minister, arrange for a national scheme for demonstrating that bioliquids fulfil the sustainability and greenhouse gas emissions savings criteria referred to in Regulation 6.

#### **Biomass fuels - verification of compliance with the sustainability and greenhouse gas emissions saving criteria**

8. (1) The SEAI shall establish a procedure to verify that participants in a support scheme or renewable energy obligation have demonstrated that biomass fuels fulfil the sustainability and greenhouse gas emissions savings criteria referred to in Regulation 6.

(2) The SEAI may, with the consent of the Minister, arrange for a national scheme for demonstrating that biomass fuels fulfil the sustainability and greenhouse gas emissions savings criteria referred to in Regulation 6.

#### **Bioliquids – information from participants**

9. (1) A participant in a support scheme or renewable energy obligation shall comply with any request from the SEAI to submit the following information for each consignment of bioliquids the participant used in a support scheme or renewable energy obligation -

- (a) whether the greenhouse gas emissions savings referred to in paragraph (7) of Schedule 3 are being calculated by reference to subparagraph (a), (b), (c) or (d) of paragraph (8) of Schedule 3,
- (b) details of measures taken to comply with the sustainability criteria set out in paragraphs (1) to (6) of Schedule 3,
- (c) details of the application of the methodology for calculating greenhouse gas emissions from the production and use of bioliquids set out in Part C of Annex V of the Directive, and,
- (d) at least one of the following –
  - (i) a statement, and evidence in support thereof, that the consignment has been certified or accepted as fulfilling the requirements of a national scheme arranged under Regulation 7(2),
  - (ii) a statement, and evidence in support thereof, that the consignment has been certified or accepted as fulfilling the requirements of a national scheme set up by another Member State, or
  - (iii) a statement, and evidence in support thereof, that the consignment has been duly certified as fulfilling the requirements of a voluntary scheme (including the name of the voluntary scheme) that has been recognised by the European Commission to contain accurate data on the greenhouse gas emissions savings referred to in paragraph (7) of Schedule 3 and the sustainability criteria referred to in paragraphs (1) to (6) of Schedule 3.

(2) The information submitted to a competent authority under this Regulation shall be accompanied by a report verifying the information.

(3) The verification shall be completed by an independent person in accordance with requirements for assurance engagements, as may be approved by the competent authority from time to time.

(4) Where calculation of greenhouse gas emissions savings is involved, a participant in a support scheme or renewable energy obligation shall hold the details of these calculations on file for 3 years and these details shall be available for audit as required by Regulation 11.

(5) The competent authority shall make the information about the geographic origin and feedstock type of bioliquids per fuel supplier available on the website of the competent authority and shall update that information on an annual basis.

### **Biomass fuels – information from participants**

10. (1) A participant in a support scheme or renewable energy obligation shall comply with any request from the SEAI to submit the following information for each consignment of biomass fuels the participant used in a support scheme or renewable energy obligation -

- (a) whether the greenhouse gas emissions savings referred to in paragraphs (7) of Schedule 3 are being calculated by reference to subparagraph (a), (b), (c) or (d) of paragraph (8) of Schedule 3,
- (b) details of measures taken to comply with the sustainability criteria set out in paragraphs (1) to (6) of Schedule 3,
- (c) details of the application of the methodology for calculating greenhouse gas emissions from the production and use of biomass fuels set out in Part B of Annex VI of the Directive; and,
- (d) at least one of the following –
  - (i) a statement, and evidence in support thereof, that the consignment has been certified or accepted as fulfilling the requirements of a national scheme arranged under Regulation 8 (2),
  - (ii) a statement, and evidence in support thereof, that the consignment has been certified or accepted as fulfilling the requirements of a national scheme set up by another Member State, or
  - (iii) a statement, and evidence in support thereof, that the consignment has been duly certified as fulfilling the requirements of a voluntary scheme (including the name of the voluntary scheme) that has been recognised by the European Commission to contain accurate data on the greenhouse gas emissions savings referred to in paragraph (7) of Schedule 3 and the sustainability criteria referred to in paragraphs (1) to (6) of Schedule 3.

(2) The information submitted to the SEAI under this Regulation shall be accompanied by a report verifying the information.

(3) The verification shall be completed by an independent person in accordance with requirements for assurance engagements, as may be approved by the SEAI from time to time.

(4) Where calculation of greenhouse gas emissions savings is involved, a participant in a support scheme or renewable energy obligation shall hold the details of these calculations on file for 3 years and these details shall be available for audit as required by Regulation 12.

(5) The SEAI shall make the information about the geographic origin and feedstock type of biomass fuels in respect of each economic operator or fuel supplier, whichever the case may be, available on the website of the SEAI and shall update that information on an annual basis.

### **Bioliquids - independent audit of records**

11. (1) In order for bioliquids to be deemed to fulfil the sustainability and greenhouse gas emissions savings criteria referred to in Regulation 6, a

participant in a support scheme or renewable energy obligation using bioliquids shall maintain records of sustainability and greenhouse gas emissions savings criteria related data for each consignment of bioliquids used.

(2) A participant in a support scheme or renewable energy obligation using bioliquids shall arrange for an independent audit of the data referred to in paragraph (1) and the information submitted to the competent authority under these Regulations on an annual basis.

(3) The audit shall -

- (a) evaluate the frequency and methodology of sampling and the robustness of the data,
- (b) verify that the systems used by the person wishing to participate in a support scheme or renewable energy obligation are accurate, reliable and protected against fraud, including verification ensuring that materials are not intentionally modified or discarded so that the consignment or part thereof could become a waste or residue,
- (c) meet the requirements specified for assurance engagements as may be approved by the competent authority from time to time; and,
- (d) be in such form as the competent authority may require.

(4) A participant in a support scheme or renewable energy obligation using bioliquids shall deliver the auditors' report to the competent authority no later than 3 months after the end of the reporting period for the support scheme or renewable energy obligation or within a period determined by the competent authority.

(5) In order to comply with paragraph (5)(a) and (6)(a) of Schedule 3, the first or second party auditing may be used up to the first gathering point of the forest biomass.

### **Biomass fuels - independent audit of records**

12. (1) In order for biomass fuels to be deemed to fulfil the sustainability and greenhouse gas criteria referred to in Regulation 6, a participant in a support scheme or renewable energy obligation using biomass fuels shall maintain records of sustainability criteria related data for each consignment of biomass fuels used.

(2) A participant in a support scheme or renewable energy obligation using biomass fuels shall arrange for an independent audit of the data referred to in paragraph (1) and the information submitted to SEAI on an annual basis.

(3) The audit shall -

- (a) evaluate the frequency and methodology of sampling and the robustness of the data,
- (b) verify that the systems used by the person wishing to participate in a support scheme or renewable energy obligation are accurate, reliable and protected against fraud, including

verification ensuring that materials are not intentionally modified or discarded so that the consignment or part thereof could become a waste or residue,

- (c) meet the requirements specified for assurance engagements as may be approved by the SEAI from time to time; and,
- (d) be in such form as the SEAI may require.

(4) A participant in a support scheme or renewable energy obligation using biomass fuels shall deliver the auditors' report to the SEAI no later than 3 months after the end of the reporting period for the support scheme or renewable energy obligation or within a period determined by the SEAI.

(5) In order to comply with paragraph (5)(a) and (6)(a) of Schedule 3, the first or second party auditing may be used to the first gathering point of the forest biomass.

### **Statement of compliance with sustainability criteria – bioliquids**

13. (1) A participant in a support scheme or renewable energy obligation who uses bioliquids shall furnish to the SEAI a statement of compliance with sustainability and greenhouse gas emissions savings criteria referred to in Regulation 6 specifying which of the following methods has been utilised with respect to each consignment of bioliquids -

- (a) through compliance with any national scheme developed by a competent authority under Regulation 7(2),
- (b) through compliance with a national scheme set up by another Member State, or
- (c) through a voluntary scheme.

(2) A participant in a support scheme or renewable energy obligation shall report compliance with the sustainability and greenhouse gas emissions savings criteria referred to in Schedule 3 in accordance with a mass balance system that -

- (a) allows consignments of raw material or fuels with differing sustainability and greenhouse gas emissions saving characteristics to be mixed for instance in a container, processing or logistical facility, transmission and distribution infrastructure or site,
- (b) allows consignments of raw material with differing energy content to be mixed for the purposes of further processing, provided that the size of consignments is adjusted according to their energy content,
- (c) requires information about the sustainability and greenhouse gas emissions saving characteristics and sizes of the consignments referred to in point (a) to remain assigned to the mixture, and,
- (d) provides for the sum of all consignments withdrawn from the mixture to be described as having the same sustainability characteristics, in the same quantities, as the sum of all

consignments added to the mixture and requires that this balance be achieved over an appropriate period of time.

(3) The mass balance system referred to in paragraph (2) shall contain information on whether support has been provided for the production of that consignment, and if so, on the type of support system.

(4) Where a consignment is processed, information on the sustainability and greenhouse gas emissions saving characteristics of the consignment shall be adjusted and assigned to the output in accordance with the following rules -

- (a) when the processing of a consignment of raw material yields only one output that is intended for the production of biofuels, bioliquids or biomass fuels, renewable liquid and gaseous transport fuels of non-biological origin, or recycled carbon fuels, the size of the consignment and the related quantities of sustainability and greenhouse gas emissions saving characteristics shall be adjusted applying a conversion factor representing the ratio between the mass of the output that is intended for such production and the mass of the raw material entering the process, and,
- (b) when the processing of a consignment of raw material yields more than one output that is intended for the production of biofuels, bioliquids or biomass fuels, renewable liquid and gaseous transport fuels of non-biological origin, or recycled carbon fuels, for each output a separate conversion factor shall be applied and a separate mass balance shall be used.

(5) Where a participant in a support scheme or renewable energy obligation has demonstrated compliance of a consignment of biofuels, bioliquids or biomass fuels with the sustainability criteria and greenhouse gas emissions savings criteria referred to in Schedule 3 through a voluntary scheme, to the extent the voluntary scheme demonstrates compliance with the sustainability criteria, they shall not be required to provide further proof of compliance.

#### **Statement of compliance with sustainability criteria – biomass fuels**

14. (1) A participant in a support scheme or renewable energy obligation who uses biomass fuels shall furnish to the SEAI a statement of compliance with sustainability and greenhouse gas emissions savings criteria referred to in Regulation 6 specifying which of the following methods has been utilised with respect to each consignment of biomass fuels -

- (a) through compliance with any national scheme developed by the SEAI under Regulation 8 (2),
- (b) through compliance with a national scheme set up by another Member State, or
- (c) through a voluntary scheme.

(2) A participant in a support scheme or renewable energy obligation shall report compliance with the sustainability and greenhouse gas emissions savings



criteria referred to in Schedule 3 in accordance with a mass balance system that -

- (a) allows consignments of raw material or fuels with differing sustainability and greenhouse gas emissions saving characteristics to be mixed for instance in a container, processing or logistical facility, transmission and distribution infrastructure or site,
- (b) allows consignments of raw material with differing energy content to be mixed for the purposes of further processing, provided that the size of consignments is adjusted according to their energy content,
- (c) requires information about the sustainability and greenhouse gas emissions saving characteristics and sizes of the consignments referred to in point (a) to remain assigned to the mixture, and,
- (d) provides for the sum of all consignments withdrawn from the mixture to be described as having the same sustainability characteristics, in the same quantities, as the sum of all consignments added to the mixture and requires that this balance be achieved over an appropriate period of time.

(3) The mass balance system referred to in paragraph (2) shall contain information on whether support has been provided for the production of that consignment, and if so, on the type of support system.

(4) Where a consignment is processed, information on the sustainability and greenhouse gas emissions saving characteristics of the consignment shall be adjusted and assigned to the output in accordance with the following rules -

- (a) when the processing of a consignment of raw material yields only one output that is intended for the production of biofuels, bioliquids or biomass fuels, renewable liquid and gaseous transport fuels of non-biological origin, or recycled carbon fuels, the size of the consignment and the related quantities of sustainability and greenhouse gas emissions saving characteristics shall be adjusted applying a conversion factor representing the ratio between the mass of the output that is intended for such production and the mass of the raw material entering the process, and,
- (b) when the processing of a consignment of raw material yields more than one output that is intended for the production of biofuels, bioliquids or biomass fuels, renewable liquid and gaseous transport fuels of non-biological origin, or recycled carbon fuels, for each output a separate conversion factor shall be applied and a separate mass balance shall be used.

(5) Where a participant in a support scheme or renewable energy obligation has demonstrated compliance of a consignment of biofuels, bioliquids or biomass fuels with the sustainability criteria and greenhouse gas emissions savings criteria referred to in Schedule 3 through a voluntary scheme, to the

extent the voluntary scheme demonstrates compliance with the sustainability criteria, they shall not be required to provide further proof of compliance.

### **Provision of information to the European Commission and the SEAI**

15. (1) A competent authority for a support scheme or renewable energy obligation shall submit to the Minister the information required to be submitted to a competent authority under Regulations 9 and 13.

(2) The SEAI shall submit to the Minister the information required to be submitted to the SEAI under Regulations 10 and 14.

(3) The Minister shall submit to the European Commission, in aggregated form, the information required to be submitted to a competent authority under Regulations 9 and 13.

(4) The Minister shall submit to the European Commission, in aggregated form, the information required to be submitted to the SEAI under Regulations 10 and 14.

(5) The Minister shall submit to the European Commission, in aggregated form, the information required to be submitted to the Agency under Regulations 5 and 6 of the Regulations of 2012.

(6) A competent authority shall, on the request of SEAI, provide the SEAI with such information, that the competent authority has collected in the performance of its functions regarding a support scheme or renewable energy obligation pursuant to these Regulations, the Act of 2007 or the Regulations of 2012 to the extent that that information is necessary for SEAI to perform its functions pursuant to these Regulations.

### **Amendment of the Act of 1999**

16. (1) The Electricity Regulation Act 1999 (Public Service Obligations) Order 2002 (S.I. No. 217 of 2002) is amended:

- (a) in Article 2 by inserting the following definition:

“ ‘biomass fuels’ means gaseous and solid fuels produced from biomass;”, and
- (b) in Article 6D(2) (inserted by the Electricity Regulation Act 1999 (Public Service Obligations) (Amendment) Order 2012 (S.I. No. 438 of 2012)) –
  - (i) by substituting subparagraph (d) for the following:

“(d) where a generator has generated electricity from bioliquids and where the generator has not satisfied the Commission that the bioliquids have fulfilled the sustainability and greenhouse gas emissions saving criteria referred to in Regulation 6 of the European Union (Renewable Energy) Regulations (2) 2022 (S.I. No. 350 of 2022).”, and
  - (ii) by inserting after subparagraph (d) the following:

“(e) where a generator has generated electricity from biomass fuels and where the generator has not satisfied the Commission that the biomass fuels have fulfilled the sustainability and greenhouse gas emissions saving criteria referred to in Regulation 6 of the European Union (Renewable Energy) Regulations (2) 2022 (S.I. No. 350 of 2022).”

### **Amendment of the National Oil Reserves Agency Act 2007**

17. (1) Part 5A of the Act of 2007 is amended –

- (a) by the substitution of, “Renewable Transport Fuel Obligation” for “Biofuel Obligation”, in the heading of this section;
- (b) in section 44A –
  - (i) in the definition of “Directive”, by substituting “Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources” for “Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC”,
  - (ii) by inserting the following definitions:

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

“renewable transport fuel” means liquid or gaseous fuel for transport, including:

- (a) Biofuels
- (b) Biogas
- (c) Recycled carbon fuels
- (d) Advanced biofuels
- (e) renewable liquid and gaseous transport fuel of non-biological origin

“biogas” means gaseous fuels produced from biomass;

“Recycled carbon fuels” means liquid and gaseous fuels that are produced from liquid or solid waste or solid waste streams of non-renewable origin which are not suitable for material recovery in accordance with Article 4 of Directive 2008/98/EC, or from waste processing gas and exhaust gas of non-renewable origin which are produced as an unavoidable and unintentional consequence of the production process in industrial installations;

“Advanced biofuels” mean biofuels that are produced from the feedstock listed in Part A of Annex IX;

“Advanced biofuel obligation” has the meaning assigned by section 44C;

“renewable liquid and gaseous transport fuels of non-biological origin” means liquid or gaseous fuels which are used in the transport sector other than biofuels or biogas, the energy content of which is derived from renewable sources other than biomass;

“renewable transport fuel levy assessment notice” means a notice given under section 44Q;

“renewable transport fuel obligation” has the meaning assigned by section 44C;

“renewable transport fuel obligation account” means an account held under section 44E by an obligated party, renewable transport fuel producer or renewable transport fuel supplier and references to ‘renewable transport fuel obligation account holder’ shall be construed accordingly;

“renewable transport fuel obligation certificate” means a certificate issued under section 44G to a renewable transport fuel obligation account holder;

“renewable transport fuel producer” means a person who produces renewable transport fuel for his or her own use or for sale;

“renewable transport fuel supplier” means a person who supplies renewable transport fuel;

“relevant disposal of renewable transport fuel” has the meaning assigned by section 44N;

“obligated party” means an oil company or oil consumer, as the case may be, that is subject to the renewable transport fuel obligation under this Part;

(ii) by the deletion the following definitions:

“ ‘biofuel levy assessment notice’ means a notice given under section 44Q;

‘biofuel obligation’ has the meaning assigned by section 44C;

‘biofuel obligation account’ means an account held under section 44E by an obligated party, biofuel producer or biofuel supplier and references to ‘biofuel obligation account holder’ shall be construed accordingly;

‘biofuel obligation certificate’ means a certificate issued under section 44G to a biofuel obligation account holder;

‘biofuel producer’ means a person who produces biofuel for his or her own use or for sale;

‘biofuel supplier’ means a person who supplies biofuel;

‘relevant disposal of biofuel’ has the meaning assigned by section 44N.”

- (c) by the deletion of section 44B;
- (d) in section 44C –
  - (i) in the heading of this section, by substituting “Renewable transport fuel obligation” for “biofuel obligation”;
  - (ii) in subsections (2) and (3), by replacing the word “biofuel” with “renewable transport fuel” in each place that it occurs;
  - (iii) in subsection (3), by the substitution of “megajoules” for “litres”;
  - (iv) by the insertion of the following after subsection (3) -

“(4) Within the renewable transport fuel obligation referred to in subsection (3):

- (a) the contribution from advanced biofuels and biogas shall meet the requirements of Article 25 (1) subparagraph 4 of the Directive (in this Part referred to as the ‘advanced biofuel obligation’);
- (b) the contribution from biofuels and biogas produced from food and feed crops shall meet the requirements of Article 26 (1) of the Directive (in this Part referred to as the ‘crop cap’);
- (c) the contribution from biofuels and biogas produced from high indirect land-use change-risk (in this Part referred to as ‘high ILUC-risk’) feedstocks shall be no more than the amount disposed of in 2019 by the

oil companies or oil consumers that disposed of such biofuels and biogas in 2019.”

- (e) in section 44D -
  - (i) in the heading of this section, by substituting “Rate of renewable transport fuel obligation, advanced biofuel obligation, crop cap and high ILUC-risk biofuel” for “Rate of biofuel obligation”;
  - (ii) by the substitution of “renewable transport fuel” for “biofuel” in each place that it occurs;
  - (iii) by the substitution of the following for subsection (1):
 

“The percentage rates referred to in section 44C(3)(b) and 44C(4), shall be—

    - (a) such percentage rates as stand specified by order under subsection (2).”
  - (iv) by the deletion of subsection (1)(b);
  - (v) in subsection (2)(a), by the insertion of “.” after “subsection (1)(a)” and by the deletion of “or the percentage rate specified in subsection (1)(b).”;
  - (vi) by the deletion of subsection (2)(b);
  - (vii) by the substitution of the following for subsection 3(a):
 

“(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,”.
  - (viii) in subsection (3)(b), by the substitution of, “pursuant to Article 30(3) of the Directive” for “pursuant to Article 22 of the Directive”;
  - (ix) in subsection (3)(c), by the substitution of “pursuant to Article 33 of the Directive” for “pursuant to Article 23 of the Directive.”.
- (f) in Section 44E –
  - (i) in the heading of this section, by substituting “Renewable transport fuel obligation account” for “Biofuel obligation account”;
  - (ii) by substituting “renewable transport fuel” for “biofuel” in each place that it occurs.
- (g) in Section 44F –
  - (i) in the heading of this section, by substituting “Management of renewable transport fuel accounts” for “Management of biofuel obligation accounts”;

- (ii) by substituting “renewable transport fuel” for “biofuel” in each place that it occurs.
- (h) in section 44G –
  - (i) in the heading of this section, by substituting “Renewable transport fuel obligation certificates” for “biofuel obligation certificates”;
  - (ii) by substituting “renewable transport fuel” for “biofuel” in each place that it occurs;
  - (iii) in subsection (1), by substituting “megajoule” for “litre”;
  - (iv) by substituting paragraphs (a) and (b) of subsection (1) for the following:
    - “(a) 2 certificates in the case of such renewable transport fuel listed in Annex IX of the Directive, or whereby the Agency may from time to time determine in accordance with this section are so eligible, and
    - (b) one certificate in the case of all other renewable transport fuels.”.
  - (v) by the insertion of the following after subsection (1) -
    - “(1A) (1) the Minister may make regulations setting out the amount of credits applicable 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.”
  - (vi) by the insertion of the following after subsection (2A) -
    - “(2B) (1) In respect of feedstocks which were previously determined eligible for two certificates per litre prior to the enactment of the Regulations of 2022, which are not explicitly listed in Annex IX, and for which revised determinations under 44G (11) are required -
      - (a) The Agency shall make determinations, in accordance with the provisions of 44G(11), as soon as reasonably practicable following enactment of these Regulations;
      - (b) Following completion of the determinations at subsection (1)(a), the Agency shall publish a notice on its website of the revised determinations;
      - (c) The determinations made by the Agency under subsection (1)(a) shall come into effect for applications made under 44G (1) for the obligation period commencing 1 January 2023.”
  - (vii) by substituting paragraphs (a) and (b) of subsection (4) with the following:

“(a) the sustainability and greenhouse gas emission savings criteria for renewable transport fuels set out in Schedule 3 to the Renewable Energy Regulations, and as provided for under Article 28(5) of the Directive, and

(b) any requirements for verification of compliance with those sustainability and greenhouse gas emissions savings criteria in accordance with the Renewable Energy Regulations and the European Union (Biofuel Sustainability Criteria) Regulations 2012 (S.I. No. 33 of 2012).”

(viii) by substituting paragraph (a) of subsection 11 with the following:

“(a) The Agency may make a determination with regard to certain feedstocks listed in Annex IX Part A, specifically (b)-(d) and (p)-(q) inclusive, for the purposes of subsection (1)(a), in which case the Agency shall consult with the persons specified in paragraph (b) and may consult with such other persons as it considers appropriate in order to satisfy itself that the material used to produce the renewable transport fuel concerned falls within Annex IX Part A of the Directive, unless the Commission has previously provided such clarification concerning the feedstock.”

(i) In Section 44H –

(i) by substituting “renewable transport fuel” for “biofuel” in each place that it occurs;

(j) in Section 44I -

(i) in the heading of this section, by substituting “Compliance with renewable transport fuel obligation” for “Compliance with biofuel obligation”;

(ii) by substituting “renewable transport fuel” for “biofuel” in each place that it occurs;

(iii) by substituting subsections (1) and (2) with the following:

“(1) The Agency shall notify each obligated party in such form as the Agency determines within 60 days after the end of the obligation period concerned of—

(a) the renewable transport fuel obligation relating to the obligated party for that period,

(b) the advanced biofuel obligation relating to the obligated party for that period

(c) the renewable transport fuel obligation certificates (if any) held against the renewable transport fuel obligation account concerning (a) and (b) above which may be counted towards the discharge of the



renewable transport fuel obligation, and advanced biofuel obligation respectively for that period.

- (d) the renewable transport fuel obligation certificates (if any) held that may be counted towards the contributions specified in 44C (4) (b) and (c).

(2) For the purposes of subsection (1)(c), each certificate shall have a value equivalent to one megajoule of the specified amount calculated in accordance with section 44C(3) for the purpose of determining the renewable transport fuel obligation.”.

- (iv) by substituting paragraph (c) of subsection (6) with the following:

“(c) For obligation periods beginning on or after 1 January 2020, a certificate referred to in paragraph (a) and (b) may not be counted towards the discharge of more than 15 per cent of the amount of the obligation notified to the obligated party under subsection (1) in respect of that subsequent obligation period.”.

- (v) by the insertion of the following after subsection (6)(c):

“(d) for obligation periods beginning on or after 1 January 2023, the Minister may also make regulations to specify a percentage (lower than 15 per cent) amount of certificates which may be counted against that obligation period, when considering the amount of buyout price for discharge of the obligations by payment under Section 44J (5) under this Part.

(e) for the purpose of this section, certificates in respect of the advanced biofuel obligation are not interchangeable with certificates in respect of the renewable transport fuel obligation.”.

- (k) In Section 44J –

- (i) in the heading of this section, by substituting “Discharge of renewable transport fuel obligation or advanced biofuel obligation by payment” for “Discharge of biofuel obligation by payment”.

- (ii) by substituting “renewable transport fuel” for “biofuel” in each place that it occurs;

- (iii) in subsection (1), by the substitution of “megajoule” for “litre”;

- (iv) by substituting paragraph (a)(iii) of subsection (5) with the following:

“(iii) the level of the buy-out price required in order for the renewable transport fuel obligation or advanced biofuel obligation to operate effectively;”.

- (v) by the substitution of “,” for “.” at the end of paragraph (c) of subsection (5);
- (vi) by the insertion of the following after paragraph (c) of subsection (5) -
  - “(d) the provisions and conditions specified in subsection (5) of this section, concerning a buy-out price relating to the renewable transport fuel obligation, and a separate amount of buy-out price with respect to the advanced biofuel obligation.”.
- (vii) in subsection (7) paragraph (a)(ii), by the substitution after “shall” of “publish a draft of the proposed regulations” for “give not less than 3 months notice of the proposed regulations.”.
- (l) in sections 44 K to 44 X -
  - (i) by the substitution of “renewable transport fuel” for “biofuel” in each place that it occurs, including in the headings of these sections.

(2) Notwithstanding paragraph (1)(e), no new Order shall be made under section 44D of the Act that will commence before 1 January 2023, in accordance with the National Oil Reserves Agency Act 2007 (Biofuel Obligation Rate) Order 2022 (S.I. No. 21/2022).

(3) Notwithstanding paragraph (1)(k), no new Order shall be made under section 44J of the Act that will commence before 1 January 2023, in accordance with the National Oil Reserves Agency Act 2007 (Biofuel Obligation Buy-out Charge) (Amendment) Regulations 2022 (S.I. No. 225/2022).

### **Amendment of the Regulations of 2012**

18. (1) The Regulations of 2012 are amended -

- (a) in Regulation 2(1) –
  - (i) by substituting “ ‘Regulations of 2022’ means European Union (Renewable Energy) Regulations (2) 2022 (S.I. No. 350 of 2022).” for “ ‘Regulations of 2014’ means European Union (Renewable Energy) Regulations 2014 (S.I. No. 483 of 2014)”;
  - (ii) by substituting “Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources” for “Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 as amended by Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 September 2015”;
  - (iii) by inserting before the definition of “Regulations of 2022” the following:

“ ‘national scheme’ means a means a national scheme recognised by the European Commission in accordance with Article 30(6) of the Directive”;

(iv) by inserting after the definition of “Agency” the following:

“ ‘renewable transport fuel’ means liquid or gaseous fuel for transport, including:

- (a) Biofuels
- (b) Biogas
- (c) Recycled carbon fuels
- (d) Advanced biofuel
- (e) renewable liquid and gaseous transport fuel of non-biological origin;

‘biogas’ means gaseous fuels produced from biomass;

‘Recycled carbon fuels’ means liquid and gaseous fuels that are produced from liquid or solid waste or solid waste streams of non-renewable origin which are not suitable for material recovery in accordance with Article 4 of Directive 2008/98/EC, or from waste processing gas and exhaust gas of non-renewable origin which are produced as an unavoidable and unintentional consequence of the production process in industrial installations;

‘Advanced biofuels’ mean renewable transport fuels that are produced from the feedstock listed in Part A of Annex IX of the Directive;

‘renewable liquid and gaseous transport fuels of non-biological origin’ means liquid or gaseous fuels which are used in the transport sector other than renewable transport fuels or biogas, the energy content of which is derived from renewable sources other than biomass’

‘renewable transport fuel obligation’ has the meaning assigned by section 44C of the Act;

‘renewable transport fuel obligation account’ means an account held under section 44E of the Act by an obligated party, renewable transport fuel producer or renewable transport fuel supplier and references to ‘renewable transport fuel obligation account holder’ shall be construed accordingly;

‘renewable transport fuel producer’ means a person who produces renewable transport fuel for his or her own use or for sale;

‘relevant disposal of renewable transport fuel’ has the meaning assigned by section 44N of the Act”;

- (v) by the deletion of the following definitions:
- ‘biofuel obligation’ has the meaning assigned to it by section 44C of the Act;
- ‘biofuel obligation account’ has the meaning assigned to it under section 44E of the Act and references to ‘biofuel obligation account holder’ shall be construed accordingly;
- ‘biofuel producer’ means a person who produces biofuel for his or her own use or for sale;
- ‘disposal of biofuel’ means a relevant disposal of biofuel (within the meaning of section 44N of the Act).”.
- (b) in Regulation 3, by substituting “renewable transport fuel” for “biofuel” in each place that it occurs.
- (c) in Regulation 4 –
- (i) by substituting “renewable transport fuel” for “biofuel” in each place that it occurs;
- (ii) by substituting for paragraph (1) the following:
- “(1) The Agency shall establish a procedure by which renewable transport fuel obligation account holders may demonstrate compliance with the sustainability and greenhouse gas emissions savings criteria for renewable transport fuels referred to in Regulation 6 of the Regulations of 2022 in respect of which renewable transport fuels obligation certificates are being applied for.”.
- (iii) by inserting the following paragraph after paragraph (1):
- “(1A) The Agency may, with the consent of the Minister, arrange for a national scheme for demonstrating that renewable transport fuels in respect of which renewable transport fuel obligation certificates are being applied for comply with the sustainability and greenhouse gas emissions savings criteria referred to in Regulation 6 of the Regulations of 2022”.
- (iv) by the substitution of “under Article 30” for “under Article 18” in paragraph (3)
- (v) by the substitution of “Annex IX of the Directive” for “Schedule 5 of the Regulations of 2014” in paragraph (4)
- (d) in Regulation 5 -
- (i) by substituting for paragraph (1) the following:
- “(1) A renewable transport fuel obligation account holder, in seeking to comply with section 44G(4) of the Act, shall furnish to the Agency a statement of compliance with sustainability and greenhouse gas emissions savings criteria referred to in Regulation 6 of the Regulations of

2022, specifying which of the following methods has been utilised with respect to each disposal of renewable transport fuel:

- (a) through compliance with a national scheme arranged by the Agency under Regulation 4(1A),
  - (b) through compliance with a national scheme set up by another Member State, or
  - (c) through a voluntary scheme.”
- (ii) by substituting for paragraph (1A) the following:
- “(1A) When a renewable transport fuel obligation account holder provides proof or data obtained in accordance with an agreement or scheme as described in subparagraph (b) or (c) of paragraph (1), to the extent covered by that scheme, he or she shall not be required to provide further evidence of compliance with the sustainability criteria set out in Schedule 3 to the Regulations of 2022 or information on measures referred to Regulation 6(1)(d).”
- (iii) by substituting for paragraph (2) the following:
- “(2) A renewable transport fuel obligation account holder shall report compliance with the sustainability and greenhouse gas emissions savings criteria referred to in Schedule 3 of the Regulations of 2022 in accordance with a mass balance system that -
- (a) allows consignments of raw material or fuels with differing sustainability and greenhouse gas emissions saving characteristics to be mixed for instance in a container, processing or logistical facility, transmission and distribution infrastructure or site,
  - (b) allows consignments of raw material with differing energy content to be mixed for the purposes of further processing, provided that the size of consignments is adjusted according to their energy content,
  - (c) requires information about the sustainability and greenhouse gas emissions saving characteristics and sizes of the consignments referred to in subparagraph (a) to remain assigned to the mixture, and

(d) provides for the sum of all consignments withdrawn from the mixture to be described as having the same sustainability characteristics, in the same quantities, as the sum of all consignments added to the mixture and requires that this balance be achieved over an appropriate period of time.”

(iv) by inserting after paragraph (2):

“(3) The mass balance system referred to in paragraph (2) shall contain information on whether support has been provided for the production of that consignment, and if so, on the type of support system.

(4) Where a consignment is processed, information on the sustainability and greenhouse gas emissions saving characteristics of the consignment shall be adjusted and assigned to the output in accordance with the following rules -

(a) when the processing of a consignment of raw material yields only one output that is intended for the production of renewable transport fuels, the size of the consignment and the related quantities of sustainability and greenhouse gas emissions saving characteristics shall be adjusted applying a conversion factor representing the ratio between the mass of the output that is intended for such production and the mass of the raw material entering the process, and,

(b) when the processing of a consignment of raw material yields more than one output that is intended for the production of renewable transport fuels, for each output a separate conversion factor shall be applied and a separate mass balance shall be used.”

(e) in Regulation 6 -

(i) by substituting “renewable transport fuel” for “biofuel” in each place that it occurs;

(ii) by substituting for subparagraph (a) the following:

“(a) whether the greenhouse gas emissions savings referred to in paragraph (7) of Schedule 3 of the Regulations of 2022 are being calculated by reference to subparagraph (a), (b), (c) or (d) of paragraph (8) of Schedule 3 of the Regulations of 2022.”

(iii) by substituting for subparagraph (e) the following:

“(e) whether the bonus referred to in Annex IV, part C, points 7 and 8 of the Directive of 1998 has been used in the greenhouse gas calculation referred to in Annex IV, part C, point 1 of Directive 98/70/EC for the consignment”.

(iv) by substituting for subparagraph (f) the following:

“(f) whether the factor for emissions savings from soil carbon accumulation via improved agricultural management referred to in Annex IV, part C, point 1 of the Directive of 1998 has been used in the greenhouse gas calculation referred to in the same paragraph for the consignment,

and at least one of the following:

- (i) a statement, and evidence in support thereof, that the consignment has been certified or accepted as fulfilling the requirements of the procedure referred to in Regulation 4;
- (ii) a statement, and evidence in support thereof, that the consignment has been certified or accepted as fulfilling the requirements of a national scheme set up by another Member State of the European Union;
- (iii) a statement, and evidence in support thereof, that the consignment has been duly certified as fulfilling the requirements of a voluntary scheme (including the name of the voluntary scheme) that has been recognized by the European Commission to contain accurate data on the greenhouse gas emissions savings referred to in paragraphs (7) and (8) of Schedule 3 and the sustainability criteria referred to in paragraphs (1) to (6) of Schedule 3 of the Regulations of 2022;
- (iv) a statement, and evidence in support thereof, that the consignment has been certified or accepted as fulfilling the requirements of a bilateral or multilateral agreement that has been concluded by the European Community, in accordance with the first subparagraph of Article 7c(4) of the Directive of 1998, as containing accurate data for the purposes

of information on measures taken for soil, water and air protection, the restoration of degraded land, the avoidance of excessive water consumption in areas where water is scarce and/or to take into account the issues referred in the second subparagraph of Article 7b(7) of the Directive of 1998;

- (v) a statement, and evidence in support thereof, that the consignment has been duly certified as fulfilling the requirements of a voluntary scheme (including the name of the voluntary scheme) that has been recognised by the European Commission, in accordance with the second subparagraph of Article 7c(4) of the Directive of 1998, as containing accurate data for the purposes of information on measures taken for soil, water and air protection, the restoration of degraded land, the avoidance of excessive water consumption in areas where water is scarce and/or to take into account the issues referred to the second subparagraph of Article 7b(7) of the Directive of 1998.”.
- (v) by inserting after subparagraph (f) the following:
- “(g) details of measures taken to comply with the sustainability criteria set out in paragraphs (1) to (6) of Schedule 3 of the Regulations of 2022;
  - (h) details of the application of the methodology for calculating greenhouse gas emissions from the production and use of bioliquids set out in Part C of Annex V of the Directive.”.
- (vi) in Regulation 6(2), by substituting “Insofar as they relate to the Directive of 1998, paragraphs (1)(e) and (f) shall not apply where renewable transport fuel has been produced from waste and residues” for “Paragraphs 1(e) and (f) shall not apply where biofuel has been produced from wastes and residues”.
- (f) in Regulation 7 –
- (i) by substituting “renewable transport fuel” for “biofuel” in each place that it occurs.



- (ii) by inserting the follow Regulations after Regulation 7D -
- “7E (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.
- 7F (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.
- 7G (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 2022/996<sup>6</sup> 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.”
- (g) In Regulation 8, by substituting “renewable transport fuel” for “biofuel” in each place that it occurs.

### **Supervision of the operation of certification bodies for biomass fuels**

19. (1) Where a participant in a support scheme or renewable energy obligation furnishes information to the SEAI in accordance with Regulation 14 through a voluntary scheme, the SEAI shall supervise the operation of certification bodies that are conducting independent auditing under that

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<sup>6</sup> OJ L 168, 27.6.2022, p. 1–62

voluntary scheme as set out in Article 17 of Implementing Act 2022/996 and as referred to in Article 30 (8) of the Directive.

(2) A certification body for a voluntary scheme referred to in paragraph (1) shall submit, upon the request of the SEAI, all relevant information necessary to supervise the operation, including the exact date, time and location of audits.

(3) Where the SEAI finds issues of non-conformity, they shall inform the voluntary scheme without delay.

### **Supervision of the operation of certification bodies for bioliquids**

20. (1) Where a participant in a support scheme or renewable energy obligation furnishes information to the competent authority in accordance with Regulation 13 through a voluntary scheme, the competent authority shall supervise the operation of certification bodies that are conducting independent auditing under that voluntary scheme as set out in an Article 17 of Implementing Act 2022/996 and as referred to in Article 30 (8) of the Directive.

(2) A certification body for a voluntary scheme referred to in paragraph (1) shall submit, upon the request of the competent authority, all relevant information necessary to supervise the operation, including the exact date, time and location of audits.

(3) Where the competent authority finds issues of non-conformity, they shall inform the voluntary scheme without delay.

### **Amendment of the Regulations of 2022**

21. (1) Regulation 8(4) of the Regulations of 2022 is substituted for the following:

“The Commission shall take all steps necessary to give effect to paragraphs (1) and (2).”.

### **Conferral of vires on SEAI**

22. (1) The following function is conferred on the SEAI -

- (a) to verify that participants in a support scheme or renewable energy obligation have demonstrated that biomass fuels fulfil the sustainability and greenhouse gas emissions savings criteria set out in these Regulations.

### **Single contact point**

23. (1) The Minister shall appoint the SEAI as the single contact point for the permit application and granting process in respect of applications related to renewable energy.

(2) The SEAI shall, upon request by the applicant, provide guidance to them throughout the administrative permit application and granting process referred to in paragraph (1). Such guidance shall include information on:

- (i) the consideration and granting of consent by a relevant planning authority;
- (ii) the issuance of a licence to generate and authorisation to construct by a regulatory authority; and
- (iii) the issuance of a grid connection offer by the relevant system operator.

This Regulation does not confer on the SEAI a role in the decision-making processes and any guidance given by the SEAI shall not be considered as the advice of the SEAI.

(3) The SEAI shall make available a manual of procedures for developers of renewable energy production projects, addressing distinctly small-scale projects and renewables self-consumers projects.

(4) Applicants shall be allowed to submit relevant documents in digital form.

#### **Supervision and issuance of guarantees of origin for electricity**

24. (1) The Commission shall, after consultation with SEMO and other relevant persons, design, establish and publish a supervisory framework for the issuance, registration, transfer and cancellation by electronic means, of guarantees of origin for electricity to generators of electricity from renewable energy.

(2) Guarantees of origin for electricity shall be issued by SEMO in accordance with the supervisory framework referred to in paragraph (1).

(3) The Commission and SEMO shall ensure that guarantees of origin for electricity are accurate, reliable and fraud-resistant.

(4) SEMO shall report annually to the Commission on the operation of system for the issuance, registration, transfer and cancellation of guarantees of origin for electricity.

(5) The framework referred to in paragraph (1) shall provide for, but shall not be limited to, the management of the system for the issuance, registration, transfer and cancellation of guarantees of origin for electricity and shall comply with the standard CEN – EN 16325 to the extent that it applies to electricity produced from renewable energy.

(6) The Commission may amend the framework referred to in paragraph (1) from time to time.

### **Supervision and issuance of guarantees of origin for gas**

25. (1) Guarantees of origin for gas shall be issued by GNI in accordance with the supervisory framework for guarantees of origin for gas established by the Commission and with these Regulations.

(2) The Commission, after consultation with GNI and other relevant persons, shall design as it sees fit, establish and publish a supervisory framework for the issuance, registration, transfer and cancellation by electronic means, of guarantees of origin for gas to producers of gas from renewable sources, which is delivered to the transportation system.

(3) The Commission and GNI shall ensure that guarantees of origin for gas are accurate, reliable and fraud-resistant and that guarantees of origin for gas from renewable sources and the supervisory framework for guarantees of origin for gas comply with the standard CEN - EN 16325 to the extent that it is applicable to gas from renewable sources.

(4) GNI shall report annually to the Commission on the operation of system for the issuance, registration, transfer, and cancellation of guarantees of origin for gas.

(5) The framework referred to in paragraph (2) shall provide for, but shall not be limited to, the management of the system for the issuance, registration, transfer, and cancellation of guarantees of origin for gas.

(6) The Commission may amend the framework referred to in paragraph (2) from time to time.

### **Functions of the guarantee of origin**

26. (1) A guarantee of origin for electricity or for gas shall have no function in terms of the State's compliance with the targets in Article 3 of the Directive or on the calculation of energy from renewable sources in accordance with Regulation 3.

(2) The Commission may introduce and, from time to time, amend objective, transparent and non-discriminatory criteria for -

- (i) the use of guarantees of origin for electricity in complying with the obligations laid down in point 5 of Annex I of the Internal Market for Electricity Directive, or
- (ii) the use of guarantees of origin for gas for the purposes of the provision by any gas supplier, in bills or promotional materials sent to its final customers, of information in respect of the contribution of each energy source to the overall fuel mix of the supplier concerned.

(3) An electricity supplier shall use a guarantee of origin for electricity for the purpose of making the disclosure of electricity from renewable sources to final customers referred to in point 5 of Annex I of the Internal Market for Electricity Directive, except as regards the share of its energy mix corresponding to non-tracked commercial offers, if any, for which the electricity supplier may use the residual mix.

(4) The Commission shall ensure that an electricity or gas supplier shall use a guarantee of origin to demonstrate to final customers the share or quantity of electricity or gas from renewable sources in an electricity or gas supplier's energy mix and in the electricity or gas supplied to consumers under contracts marketed with reference to the consumption of energy from renewable sources.

(5) A gas supplier or electricity supplier shall use the information contained in a guarantee of origin to demonstrate compliance with the requirements of any Union-wide green label introduced on foot of the provisions of Article 19(13) of the Directive.

### **Eligibility and characteristics of a guarantee of origin**

27. (1) A guarantee of origin applies to the standard size of one megawatt hour (hereinafter referred to as a "renewable energy unit").

(2) No more than one guarantee of origin for electricity or for gas shall be issued in respect of each renewable energy unit.

(3) The same renewable energy unit shall be taken into account only once.

(4) Where a PSO generator receives a guarantee of origin for electricity for a renewable energy unit, no support scheme payment for the same unit of electricity shall be made.

(5) Where a producer receives a guarantee of origin for gas for a renewable energy unit, the market value of that guarantee of origin for gas shall be taken into account appropriately in any support scheme applicable to that renewable energy unit provided that:

(a) it shall be presumed that the market value of the guarantee of origin for gas has been taken into account appropriately in any of the cases specified in the fourth paragraph of Article 19(2) of the Directive;

(b) the supervisory framework for guarantees of origin for renewable gas may provide for the issue and immediate cancellation of a guarantee of origin for the purposes of taking into account its market value.

(6) For the purposes of paragraphs (3) and (4) of Regulation 27, guarantees of origin for electricity or for gas shall be valid for 12 months after the production of the relevant renewable energy unit.

(7) Guarantees of origin for electricity or for gas that have not been cancelled shall expire at the latest 18 months after the production of the renewable energy unit.

(8) SEMO shall ensure that expired guarantees of origin for electricity are included in the calculation of the residual energy mix.

(9) GNI shall ensure that expired guarantees of origin for gas from renewable sources shall be included in the calculation of the residual energy mix.

(10) For the purpose of paragraph (3) of Regulation 26, SEMO, acting in accordance with the framework referred to in paragraph (1) of Regulation 24, shall ensure that energy companies cancel guarantees of origin for electricity at the latest six months after the end of the validity of the guarantee of origin for electricity.

(11) A guarantee of origin for electricity or for gas shall be of no effect once it has been used.

(12) A guarantee of origin for electricity or for gas shall specify at least:

- (a) that the guarantee of origin for electricity or for gas relates to electricity from renewable sources,
- (b) the energy source from which the electricity or gas was produced and the start and end dates of production,
- (c) the identity, location, type and capacity of the installation where the electricity was produced,
- (d) whether the installation has benefitted from investment support and whether the unit of energy has benefited in any other way from a national support scheme and the type of support scheme,
- (e) the date and country of issue and a unique identification number, and
- (f) the date on which the installation became operational.

(13) Notwithstanding paragraph (12), the Commission, in designing and establishing the framework referred to in Regulations 24(1) and 25(2), may decide that simplified information may be specified on guarantees of origin for electricity from installations less than 50 kW.

### **Request for issue of guarantee of origin from electricity and information required**

28. (1) A guarantee of origin from electricity shall be issued by SEMO in response to a request from a generator of electricity from renewable energy sources.

(2) A guarantee of origin for gas shall be issued by GNI in response to a request from a producer of gas from renewable sources which is delivered to the transportation system.

(3) A guarantee of origin for electricity may not be requested for electricity generated outside the State.

(4) A guarantee of origin for gas may not be requested for gas produced outside the State.

(5) A request for the issuance of a guarantee of origin for electricity or for gas shall not, in the case of electricity, be considered properly made until SEMO, or the case of gas, be considered properly made until GNI, has been provided with at least the following information from the applicant -

- (a) the energy source from which the electricity or gas was generated,

- (b) the start and end dates of generation or production covered by the request,
- (c) the name, address, location, type and capacity of the installation where the energy was generated or produced,
- (d) whether the installation has benefited from investment support,
- (e) whether the unit of energy has benefited in any other way from a support scheme, and the type of support scheme, and
- (f) the date on which the installation became operational.

(6) SEMO may request further information from a requester for the purpose of determining eligibility for the guarantee of origin for electricity and ascertaining the accuracy of the information submitted in accordance with paragraph (5).

(7) GNI may request further information from a requester for the purpose of determining eligibility for the guarantee of origin for gas and ascertaining the accuracy of the information submitted in accordance with paragraph (5).

(8) SEMO shall, in accordance with the supervisory framework, establish and maintain an electronic register of issued guarantees of origin for electricity which shall include, at a minimum, the following information:

- (a) the date of issue of the guarantee of origin for electricity;
- (b) the name and address (if a body corporate, its registered place of business) of the person to whom the guarantee has been, or was originally, issued;
- (c) a unique identification number for each guarantee of origin for electricity;
- (d) the energy source or sources from which the electricity to which the guarantee of origin for electricity relates was generated;
- (e) the start and end dates of generation to which the guarantee of origin for electricity relates;
- (f) the type and capacity of the installation where the energy was generated to which the guarantee of origin for electricity relates;
- (g) where the guarantee of origin for electricity has been transferred, the name and address (if a body corporate, its registered place of business) of the last person to whom it has been transferred;
- (h) where a guarantee of origin for electricity has been issued to a PSO generator, a statement to this effect;
- (i) a list of any guarantees of origin for electricity revoked pursuant to Regulation 29.

(9) SEMO may refuse a request for a guarantee of origin for electricity where -

- (a) it is not satisfied that the requester is a generator of electricity from renewable sources, and

- (b) the application is incomplete or ineligible.

(10) GNI shall, in accordance with the supervisory framework for gas from renewable sources, establish an electronic register of issued guarantees of origin for gas from renewable sources which shall include, at a minimum, the following information:

- (a) the date of issue of the guarantee of origin for gas from renewable sources;
- (b) the name and address (if a body corporate, its registered place of business) of the person to whom the guarantee has been, or was originally, issued;
- (c) a unique identification number for each guarantee of origin for gas from renewable sources;
- (d) the energy source or sources from which the gas to which the guarantee of origin for gas from renewable sources relates was produced;
- (e) the start and end dates of production to which the guarantee of origin for gas from renewable sources relates;
- (f) the type and capacity of the installation where the energy was produced to which the guarantee of origin for gas from renewable sources relates;
- (g) where the guarantee of origin for gas from renewable sources has been transferred, the name and address (if a body corporate, its registered place of business) of the last person to whom it has been transferred;
- (h) where a guarantee of origin for gas from renewable sources has been issued for a renewable energy unit in respect of which financial support from a support scheme is received, a statement to this effect;
- (i) a list of any guarantees of origin for gas from renewable sources revoked pursuant to Regulation 29.

(11) GNI may refuse a request for a guarantee of origin where—

- (a) it is not satisfied that the requester is a producer of gas from renewable sources, and
- (b) the application is incomplete or ineligible.

### **Revocation of a guarantee of origin**

29. (1) SEMO, after consulting with the Commission, may revoke a guarantee of origin for electricity where -

- (a) it is satisfied that the information provided in accordance with paragraphs (5) and (6) of Regulation 28 and on the basis on which that guarantee of origin for electricity was issued is substantively incorrect,



- (b) it is satisfied that the guarantee of origin for electricity was issued on the basis of any fraudulent behaviour, statement or undertaking, or
- (c) it is satisfied for another stated reason that the guarantee of origin for electricity should not have been issued, is inaccurate or was issued to the wrong person.

(2) SEMO shall give notice in writing as soon as is practicable to a holder of guarantee of origin for electricity that it has been revoked.

(3) GNI, after consulting with the Commission, may revoke a guarantee of origin for gas where:

- (a) it is satisfied that the information provided in accordance with paragraphs (5) and (7) of Regulation 28 and on the basis on which that guarantee of origin for gas was issued is substantively incorrect,
- (b) it is satisfied that the guarantee of origin was issued on the basis of any fraudulent behaviour, statement or undertaking, or
- (c) it is satisfied for another stated reason that the guarantee of origin for gas should not have been issued, is inaccurate or was issued to the wrong person.

(4) GNI shall give notice in writing as soon as is practicable to a holder of guarantee of origin for gas from renewable sources that it has been revoked.

### **Recognition of guarantees of origin**

30. (1) The supervisory framework established by the Commission under paragraph (1) of Regulation 24 shall provide for the recognition of guarantees of origin for electricity issued by other Member States in accordance with Article 19(9) of the Directive.

(2) The supervisory framework for gas from renewable sources established by the Commission under paragraph (2) of Regulation 25 shall provide for the recognition of guarantees of origin for gas issued by other Member States in accordance with Article 19(9) of the Directive.

(3) SEMO, acting in accordance with the supervisory framework established by the Commission under paragraph (1) of Regulation 24, may refuse to recognise a guarantee of origin for electricity issued by another Member State only where it has well-founded doubts about the accuracy, reliability or veracity of the guarantee of origin and in such a case shall notify the Minister and the European Commission of such a refusal and its justification.

(4) GNI, acting in accordance with the supervisory framework established by the Commission under paragraph (2) of Regulation 25, may refuse to recognise a guarantee of origin for gas issued by another Member State only where it has well-founded doubts about the accuracy, reliability or veracity of the guarantee of origin and in such a case shall notify the Minister and the European Commission of such a refusal and its justification.

(5) SEMO, acting in accordance with the supervisory framework established by the Commission under paragraph (1) of Regulation 24, shall not recognise guarantees of origins for electricity issued by a third country except where –

- (a) the European Union has concluded an agreement with that third country on mutual recognition of guarantees of origin issued in the Union and compatible guarantees of origin systems established in that third country, and
- (b) only where there is direct import or export of energy.

(6) GNI, acting in accordance with the supervisory framework established by the Commission under paragraph (2) of Regulation 25, shall not recognise guarantees of origins for gas issued by a third country except where -

- (a) the European Union has concluded an agreement with that third country on mutual recognition of guarantees of origin issued in the Union and compatible guarantees of origin systems established in that third country, and
- (b) only where there is direct import or export of energy.

### **Recoupment of costs**

31. (1) The issuance, transfer, or cancellation of a guarantee of origin for electricity under these Regulations may be accompanied by the imposition of such reasonable and proportionate fee, if any, as is determined appropriate by SEMO and approved by the Commission to cover administrative costs.

(2) The issuance, transfer, or cancellation of a guarantee of origin for gas under these Regulations may be accompanied by the imposition of such reasonable and proportionate fee, if any, as is determined appropriate by GNI and approved by the Commission to cover administrative costs.

(3) SEMO shall make information on the fee referred to in paragraph (1) publicly available.

(4) GNI shall make information on the fee referred to in paragraph (2) publicly available.

### **Guarantee of origin for high efficiency CHP**

32. (1) These Regulations are not applicable in respect of guarantees of origin issued under Regulation 26 of the Energy Efficiency Regulations.

(2) Notwithstanding paragraph (1), where electricity is generated from high-efficiency cogeneration using renewable sources, only one guarantee of origin specifying the information referred to in paragraph (15) of Regulation 26 of the Energy Efficiency Regulations and paragraph (12) of Regulation 24 may be issued.

### **District Heating and Cooling**

33. (1) The Commission, as Regulator of District Heat Networks, shall ensure that suppliers provide information on the energy performance and the share of renewable energy in district heating and cooling systems is provided to final consumers in an easily accessible manner, such as on the suppliers' websites, on annual bills, upon request or in such other manner as the Commission may determine. Suppliers shall register with the Commission in a manner and form specified by the Commission for the purpose of ensuring that this obligation is carried out.

(2) If, in the opinion of the Commission, the supplier is not satisfactorily complying with the requirements of paragraph (1), it may issue a direction to the supplier, specifying the remedial actions the supplier shall take and the period of time for compliance with the direction.

(3) The supplier may make representations to the Commission, within a period of 30 days beginning on the day on which the direction is served on it.

(4) On receiving representations (if any) under paragraph (3), the Commission shall consider them and reply to the supplier, not later than 60 days after such receipt.

(5) A supplier that is aggrieved by a direction under paragraph (2) may –

- (a) if no representations are made under paragraph (3), within the period of 30 days beginning on the day on which the direction is issued to it, or
- (b) if representations are made under paragraph (3), within the period of 30 days beginning on the day on which notification of the reply is served on it, appeal to the High Court against the direction and, in determining the appeal, the judge may make any order he or she considers appropriate, including confirming the direction, with or without modification, or cancelling the direction.

(6) Where a supplier fails to comply in full with a direction under paragraph (2) within the period specified or fails to cooperate with the Commission with regard to the direction, the Regulator may apply to the High Court for an order directing the supplier to comply with the direction or to cooperate.

(7) Where the Commission issues a direction under these Regulations, it shall be in writing, state the reasons on which the direction or determination is based and be addressed to the appropriate supplier concerned, and as soon as practicable, be sent or given in any of the following ways—

- (a) by delivering it to the supplier,
- (b) by leaving it at the address at which the supplier carries on business,
- (c) by sending it by pre-paid registered post to the address at which the supplier carries on business,

- (d) if an address for the service of directions or determinations has been furnished by the supplier to the Commission by leaving it at, or sending it by pre-paid registered post to, that address, or
- (e) where in the case of a direction, the Commission considers that the immediate giving of the direction is required, by sending it, by means of a facsimile machine or by electronic mail, to a device or facility for the reception of facsimiles or electronic mail located at the address at which the supplier ordinarily carries on business or, if an address for the service of notices has been furnished by the supplier, at that address, but only if—
  - (i) the sender's facsimile machine generates a message confirming successful transmission of the total number of pages of the direction, or
  - (ii) the recipient's facility for the reception of electronic mail generates a message confirming receipt of the electronic mail,and the direction is also given under any of the above subparagraphs.

(8) For the purposes of paragraph (7), a company is deemed to be carrying on business at its registered office and every other body corporate and every unincorporated body is deemed to be carrying on business at its principal office or place of business.

### **Revocation and continuance**

34. (1) The European Union (Renewable Energy) Regulations 2014 (S.I. 483 of 2014) are revoked.

(2) Notwithstanding paragraph (1) -

- (a) Regulation 15 of European Union (Renewable Energy) Regulations 2014 (S.I. 483 of 2014) shall continue in force, insofar as it necessary to enable the fulfilment of the obligations of the State as laid down in Article 3(1) and set out in Part A of Annex I to Directive 2009/28/EC,
- (b) Regulations 2, 24, 25 and 26 of the European Union (Renewable Energy) Regulations 2014 (S.I. 483 of 2014) shall continue in force, and

Regulations 17, 18, 19, 20, 21 and 22 and Schedule 3 and 4 European Union (Renewable Energy) Regulations 2014 (S.I. 483 of 2014) shall continue in force until 31 December 2022.

## SCHEDULE 1 – Calculation of RES Share

1. The gross final consumption of energy from renewable sources shall be calculated as the sum of:

- (a) gross final consumption of electricity from renewable sources;
- (b) gross final consumption of energy from renewable sources in the heating and cooling sector; and
- (c) final consumption of energy from renewable sources in the transport sector.

With regard to paragraph 1(a), (b), or (c), gas, electricity and hydrogen from renewable sources shall be considered only once for the purposes of calculating the share of gross final consumption of energy from renewable sources.

With regard to paragraph 1(a), (b), or (c) only biofuels, bioliquids and biomass fuels that fulfil the sustainability and greenhouse gas emissions saving criteria referred to in Regulation 6 shall be taken into account for the purpose of calculating the share of gross final consumption of energy from renewable sources.

2. For the purposes of paragraph 1(a), gross final consumption of electricity from renewable sources shall be calculated as the quantity of electricity produced in a Member State from renewable sources, including the production of electricity from renewables self-consumers and renewable energy communities and excluding the production of electricity in pumped storage units from water that has previously been pumped uphill.

In multi-fuel plants using renewable and non-renewable sources, only the part of electricity produced from renewable sources shall be taken into account. For the purposes of that calculation, the contribution of each energy source shall be calculated on the basis of its energy content.

The electricity generated by hydropower shall be accounted for in accordance with the following normalisation rules:

$$Q_{N(norm)} = C_N * \left[ \sum_{i=N-14}^N \frac{Q_i}{C_i} \right] / 15$$

where:

N = reference year;

$Q_{N(norm)}$  = normalised electricity generated by all hydropower plants of the Member State in year N, for accounting purposes;

$Q_i$  = the quantity of electricity actually generated in year i by all hydropower plants of the Member State measured in GWh, excluding production from pumped storage units using water that has previously been pumped uphill;

$C_i$  = the total installed capacity, net of pumped storage, of all hydropower plants of the Member State at the end of year i, measured in MW.

The electricity generated by wind power shall be accounted for in accordance with the following normalisation rules:

$$Q_{N(norm)} = \frac{C_N + C_{N-1}}{2} * \frac{\sum_{i=N-n}^N Q_i}{\sum_{j=N-n}^N \left( \frac{C_j + C_{j-1}}{2} \right)}$$

where:

N = reference year;

$Q_{N(norm)}$  = normalised electricity generated by all wind power plants of the Member State in year N, for accounting purposes;

$Q_i$  = the quantity of electricity actually generated in year i by all wind power plants of the Member State measured in GWh;

$C_i$  = the total installed capacity of all the wind power plants of the Member State at the end of year j, measured in MW;

n = 4 or the number of years preceding year N for which capacity and production data are available for the Member State in question, whichever is lower.

3. For the purposes of paragraph 1(b), gross final consumption of energy from renewable sources in the heating and cooling sector shall be calculated as the quantity of district heating and cooling produced in a Member State from renewable sources, plus the consumption of other energy from renewable sources in industry, households, services, agriculture, forestry and fisheries, for heating, cooling and processing purposes.

In multi-fuel plants using renewable and non-renewable sources, only the part of heating and cooling produced from renewable sources shall be taken

into account. For the purposes of that calculation, the contribution of each energy source shall be calculated on the basis of its energy content.

Ambient and geothermal energy used for heating and cooling by means of heat pumps and district cooling systems shall be taken into account for the purposes of paragraph 1(b) provided that the final energy output significantly exceeds the primary energy input required to drive the heat pumps.

The quantity of heat or cold to be considered to be energy from renewable sources for the purposes of these Regulations shall be calculated in accordance with the methodology set out in the following paragraph and shall take into account energy use in all end-use sectors.

The amount of aerothermal, geothermal or hydrothermal energy captured by heat pumps to be considered to be energy from renewable sources for the purposes of these Regulations,  $E_{RES}$ , shall be calculated in accordance with the following formula:

$$E_{RES} = Q_{usable} * \left(1 - \frac{1}{SPF}\right)$$

where:

$Q_{usable}$  = the estimated total usable heat delivered by heat pumps fulfilling the criteria referred to 3<sup>rd</sup> paragraph above, implemented as follows: Only heat pumps for which  $SPF > 1.15 * 1/\eta$  shall be taken into account;

$SPF$  = the estimated average seasonal performance factor for these heat pumps;

$\eta$  is the ratio between total gross production of electricity and the primary energy consumption for electricity production and shall be calculated as an EU average based on Eurostat data.

Thermal energy generated by passive energy systems, under which lower energy consumption is achieved passively through building design or from heat generated by energy from non-renewable sources, shall not be taken into account for the purposes of paragraph 1(b).

4. For the purposes of paragraph 1(c), the following requirements shall apply:
  - (a) Gross final consumption of energy from renewable sources in the transport sector shall be calculated as the sum of all biofuels, biomass

fuels and renewable liquid and gaseous transport fuels of non-biological origin consumed in the transport sector. However, renewable liquid and gaseous transport fuels of non-biological origin that are produced from renewable electricity shall be considered to be part of the calculation pursuant to paragraph 1(c) only when calculating the quantity of electricity produced in a Member State from renewable sources.

- (b) The greenhouse gas emissions savings from the use of renewable liquid and gaseous transport fuels of non-biological origin shall be at least 70% from 1 January 2021.
- (c) for the calculation of final consumption of energy in the transport sector, the following values regarding the energy content of transport fuels shall be used:

<b>Fuel</b>	<b>Energy content by weight (lower calorific value, MJ/kg)</b>	<b>Energy content by volume (lower calorific value, MJ/l)</b>
<b>FUELS FROM BIOMASS AND/OR BIOMASS PROCESSING OPERATIONS</b>		
Bio-Propane	46	24
Pure vegetable oil (oil produced from oil plants through pressing, extraction or comparable procedures, crude or refined but chemically unmodified)	37	34
Biodiesel - fatty acid methyl ester (methyl-ester produced from oil of biomass origin)	37	33
Biodiesel - fatty acid ethyl ester (ethyl-ester produced from oil of biomass origin)	38	34
Biogas that can be purified to natural gas quality	50	—
Hydrotreated (thermochemically treated with hydrogen) oil of biomass origin, to be used for replacement of diesel	44	34
Hydrotreated (thermochemically treated with hydrogen) oil of biomass	45	30



origin, to be used for replacement of petrol		
Hydrotreated (thermochemically treated with hydrogen) oil of biomass origin, to be used for replacement of jet fuel	44	34
Hydrotreated oil (thermochemically treated with hydrogen) of biomass origin, to be used for replacement of liquefied petroleum gas	46	24
Co-processed oil (processed in a refinery simultaneously with fossil fuel) of biomass or pyrolysed biomass origin to be used for replacement of diesel	43	36
Co-processed oil (processed in a refinery simultaneously with fossil fuel) of biomass or pyrolysed biomass origin, to be used to replace petrol	44	32
Co-processed oil (processed in a refinery simultaneously with fossil fuel) of biomass or pyrolysed biomass origin, to be used to replace jet fuel	43	33
Co-processed oil (processed in a refinery simultaneously with fossil fuel) of biomass or pyrolysed biomass origin, to be used to replace liquefied petroleum gas	46	23
<b>RENEWABLE FUELS THAT CAN BE PRODUCED FROM VARIOUS RENEWABLE SOURCES, INCLUDING BIOMASS</b>		
Methanol from renewable sources	20	16
Ethanol from renewable sources	27	21
Propanol from renewable sources	31	25
Butanol from renewable sources	33	27
Fischer-Tropsch diesel (a synthetic hydrocarbon or mixture of synthetic hydrocarbons to be used for replacement of diesel)	44	34

Fischer-Tropsch petrol (a synthetic hydrocarbon or mixture of synthetic hydrocarbons produced from biomass, to be used for replacement of petrol)	44	33
Fischer-Tropsch jet fuel (a synthetic hydrocarbon or mixture of synthetic hydrocarbons produced from biomass, to be used for replacement of jet fuel)	44	33
Fischer-Tropsch liquefied petroleum gas (a synthetic hydrocarbon or mixture of synthetic hydrocarbons, to be used for replacement of liquefied petroleum gas)	46	24
DME (dimethylether)	28	19
Hydrogen from renewable sources	120	—
ETBE (ethyl-tertio-butyl-ether produced on the basis of ethanol)	36 (of which 37 % from renewable sources)	27 (of which 37 % from renewable sources)
MTBE (methyl-tertio-butyl-ether produced on the basis of methanol)	35 (of which 22 % from renewable sources)	26 (of which 22 % from renewable sources)
TAAE (tertiary-amyl-ethyl-ether produced on the basis of ethanol)	38 (of which 29 % from renewable sources)	29 (of which 29 % from renewable sources)
TAME (tertiary-amyl-methyl-ether produced on the basis of methanol)	36 (of which 18 % from renewable sources)	28 (of which 18 % from renewable sources)
THxEE (tertiary-hexyl-ethyl-ether produced on the basis of ethanol)	38 (of which 25 % from renewable sources)	30 (of which 25 % from renewable sources)

		sources)
THxME (tertiary-hexyl-methyl-ether produced on the basis of methanol)	38 of which 14 % from renewable sources)	30 (of which 14 % from renewable sources)
<b>FOSSIL FUELS</b>		
Petrol	43	32
Diesel	43	36

(d) For the determination of the energy content of transport fuels not included in subparagraph (c) the relevant European Standards Organisation standards for the determination of the calorific values of fuels shall be used. Where no ESO standard has been adopted for that purpose, the relevant International Organization for Standardization (ISO) standards shall be used.

(e) the share of biofuels and bioliquids, as well as of biomass fuels consumed in transport, where produced from food and feed crops, shall be no more than two percent

(f) Unless otherwise clarified in delegated acts as provided for under Article 26 (2) subparagraph (5) of the Directive, the share of high indirect land-use change-risk biofuels, bioliquids or biomass fuels produced from food and feed crops for which a significant expansion of the production area into land with high-carbon stock is observed shall not exceed -

(i) in 2021, the level of consumption of such fuels in the State in 2019,

(ii) from 1 January 2025 to 31 December 2030 50% of the level of consumption of such fuels in the State in 2019, and,

(iii) from 1 January 2031, 0% of the level of consumption of such fuels in the State

unless they are certified to be low indirect land-use change-risk biofuels, bioliquids or biomass fuels pursuant to Commission Delegated Regulation (EU) 2019/807 of 13 March 2019.

5. The share of energy from renewable sources shall be calculated as the gross final consumption of energy from renewable sources divided by the gross

final consumption of energy from all energy sources, expressed as a percentage.

The amount of energy consumed in aviation shall, as a proportion of gross final consumption of energy, be considered to be no more than 6.18 per cent.

6. The methodology and definitions used in the calculation of the share of energy from renewable sources shall be those of Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008<sup>7</sup> on energy statistics.

The SEAI shall ensure coherence of statistical information used in calculating those sectoral and overall shares and statistical information reported to the Commission under Regulation (EC) No 1099/2008.

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<sup>7</sup> OJ No. L304, 14.11.2008, p.1

**SCHEDULE 2 – Calculation of share of renewable energy within the final consumption of energy in the transport sector**

1. For the calculation of the share of renewable energy within the final consumption of energy in the transport sector the following provisions shall apply:
  - (a) for the calculation of the denominator, that is the energy content of road- and rail- transport fuels supplied for consumption or use on the market, petrol, diesel, natural gas, biofuels, biogas, renewable liquid and gaseous transport fuels of non-biological origin, recycled carbon fuels and electricity supplied to the road and rail transport sectors, shall be taken into account;
  - (b) for the calculation of the numerator, that is the amount of energy from renewable sources consumed in the transport sector for the purposes of determining the share of renewable energy within the final consumption of energy in the transport sector, the energy content of all types of energy from renewable sources supplied to all transport sectors, including renewable electricity supplied to the road and rail transport sectors, shall be taken into account;
  - (c) for the calculation of both numerator and denominator, the values regarding the energy content of transport fuels set out in Schedule 1 shall be used. For the determination of the energy content of transport fuels not included in Schedule 1, the relevant ESO standards for the determination of the calorific values of fuels shall be used. Where no ESO standard has been adopted for that purpose, the relevant ISO standards shall be used.
2. For the purposes of paragraph 1(b):
  - (a) only biofuels, bioliquids and biomass fuels that fulfil the sustainability and greenhouse gas emissions saving criteria referred to in Regulation 6 shall be taken into account.
  - (b) the energy content of renewable liquid and gaseous transport fuels of non-biological origin when used as intermediate products for the production of conventional fuels [and recycled carbon fuels] shall be taken into account
  - (c) the greenhouse gas emissions savings from the use of renewable liquid and gaseous transport fuels of non-biological origin shall be at least 70% from 1 January 2021.

- (d) the share of biofuels and biogas for transport produced from the feedstock listed in Schedule 3 shall be considered to be twice its energy content;
- (e) the share of biofuels and biogas produced from the feedstock listed in Part B of Annex IX shall be limited to 1.7 % of the energy content of transport fuels supplied for consumption or use on the market by 2030 for the calculation of the RES-T;
- (f) the share of biofuels and biogas for transport from the feedstocks listed in Annex IX of the Directive may be considered to be twice its energy content;
- (g) the share of renewable electricity shall be considered to be four times its energy content when supplied to road vehicles and shall be considered to be 1.5 times its energy content when supplied to rail transport;
- (h) with the exception of fuels produced from food and feed crops, the share of fuels supplied in the aviation and maritime sectors shall be considered to be 1.2 times their energy content;
- (i) the share of biofuels and bioliquids, as well as of biomass fuels consumed in transport, where produced from food and feed crops, shall be no more than two percent;
- (j) for the calculation of gross final consumption of energy from renewable sources in the transport sector, unless otherwise clarified in delegated acts as provided for under Article 26 (2) subparagraph (5) of the Directive, the share of high indirect land-use change-risk biofuels, bioliquids or biomass fuels produced from food and feed crops for which a significant expansion of the production area into land with high-carbon stock is observed shall not exceed -
  - (i) in 2021, the level of consumption of such fuels in the State in 2019,
  - (ii) from 1 January 2025 to 31 December 2030, 50% of the level of consumption of such fuels in the State in 2019,
  - (iii) from 1 January 2031, 0% of the level of consumption of such fuels in the State;

unless they are certified to be low indirect land-use change-risk biofuels, bioliquids or biomass fuels pursuant to Commission Delegated Regulation (EU) 2019/807 of 13 March 2019<sup>8</sup>.

3. (a) For the purposes of paragraph 1, the calculation of the share of renewable electricity in the electricity supplied to road and rail vehicles shall refer to the two-year period before the year in which the electricity was supplied in the State.
  - (b) By way of derogation to subparagraph (a), in the case where electricity is obtained from a direct connection to an installation and supplied to road vehicles, that electricity shall be fully counted as renewable.
  - (c) Where electricity is used for the production of renewable liquid and gaseous transport fuels of non-biological origin, either directly or for the production of intermediate products, the average share of electricity from renewable sources in the country of production, as measured two years before the year in question, shall be used to determine the share of renewable energy.
  - (d) Electricity obtained from direct connection to an installation generating renewable electricity shall be fully counted as renewable electricity where it is used for the production of renewable liquid and gaseous transport fuels of non-biological origin, provided that the installation:
    - (i) comes into operation after, or at the same time as, the installation producing the renewable liquid and gaseous transport fuels of non-biological origin; and
    - (ii) is not connected to the grid or is connected to the grid but evidence can be provided that the electricity concerned has been supplied without taking electricity from the grid.
  - (e) Electricity that has been taken from the grid shall be counted as fully renewable provided that it is produced exclusively from renewable sources and the renewable properties and other appropriate criteria have been demonstrated, ensuring that the renewable properties of that electricity are claimed only once and only in one end-use sector.

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<sup>8</sup> OJ L 133, 21.5.2019, p. 1–7

**SCHEDULE 3 – Sustainability and greenhouse gas emissions saving criteria for biofuels, bioliquids and biomass fuels**

1. Biofuels, bioliquids and biomass fuels produced from waste and residues derived not from forestry but from agricultural land shall be deemed to be compliant only where operators or national authorities have monitoring or management plans in place in order to address the impacts on soil quality and soil carbon. Information about how those impacts are monitored and managed shall be reported pursuant to Article 30(3) of the Directive.
2. Biofuels, bioliquids and biomass fuels produced from agricultural biomass shall not be made from raw material obtained from land with a high biodiversity value, namely land that had one of the following statuses in or after January 2008, whether or not the land continues to have that status:
  - (a) primary forest and other wooded land, namely forest and other wooded land of native species, where there is no clearly visible indication of human activity and the ecological processes are not significantly disturbed;
  - (b) highly biodiverse forest and other wooded land which is species-rich and not degraded, or has been identified as being highly biodiverse by the relevant competent authority, unless evidence is provided that the production of that raw material did not interfere with those nature protection purposes;
  - (c) areas designated:
    - (i) by law or by the relevant competent authority for nature protection purposes; or;
    - (ii) for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by intergovernmental organisations or the International Union for the Conservation of Nature, subject to their recognition in accordance with the first subparagraph of Article 30(4) of the Directive,  
  
unless evidence is provided that the production of that raw material did not interfere with those nature protection purposes;
  - (d) highly biodiverse grassland spanning more than one hectare that is:
    - (i) natural, namely grassland that would remain grassland in the absence of human intervention and that maintains the natural species composition and ecological characteristics and processes; or
    - (ii) non-natural, namely grassland that would cease to be grassland in the absence of human intervention and that is species-rich and not degraded and has been identified as being highly biodiverse by the relevant competent authority, unless evidence is provided that the harvesting of the raw material is necessary to preserve its status as highly biodiverse grassland.



3. Biofuels, bioliquids and biomass fuels produced from agricultural biomass shall not be made from raw material obtained from land with high-carbon stock, namely land that had one of the following statuses in January 2008 and no longer has that status:
- (a) wetlands, namely land that is covered with or saturated by water permanently or for a significant part of the year;
  - (b) continuously forested areas, namely 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;
  - (c) land spanning more than one hectare with trees higher than five metres and a canopy cover of between 10 % and 30 %, or trees able to reach those thresholds in situ, unless evidence is provided that the carbon stock of the area before and after conversion is such that, when the methodology laid down in Part C of Annex V is applied, the conditions laid down in paragraph 10 of this Article would be fulfilled.

This paragraph shall not apply if, at the time the raw material was obtained, the land had the same status as it had in January 2008.

4. Biofuels, bioliquids and biomass fuels shall not be made from raw material obtained from land that was peatland in January 2008, unless evidence is provided that the cultivation and harvesting of that raw material does not involve drainage of previously undrained soil.
5. Biofuels, bioliquids and biomass fuels produced from forest biomass shall meet the following criteria to minimise the risk of using forest biomass derived from unsustainable production:
- (a) the country in which forest biomass was harvested has national or sub-national laws applicable in the area of harvest as well as monitoring and enforcement systems in place ensuring:
    - (i) the legality of harvesting operations;
    - (ii) forest regeneration of harvested areas;
    - (iii) that areas designated by international or national law or by the relevant competent authority for nature protection purposes, including in wetlands and peatlands, are protected;
    - (iv) that harvesting is carried out considering maintenance of soil quality and biodiversity with the aim of minimising negative impacts; and
    - (v) that harvesting maintains or improves the long-term production capacity of the forest;

- (b) when evidence referred to in point (a) of this paragraph is not available, the biofuels, bioliquids and biomass fuels produced from forest biomass shall be taken into account for the purposes referred to in points (a), (b) and (c) of the first subparagraph of paragraph 1 if management systems are in place at forest sourcing area level ensuring:
- (i) the legality of harvesting operations;
  - (ii) forest regeneration of harvested areas;
  - (iii) that areas designated by international or national law or by the relevant competent authority for nature protection purposes, including in wetlands and peatlands, are protected unless evidence is provided that the harvesting of that raw material does not interfere with those nature protection purposes;
  - (iv) that harvesting is carried out considering the maintenance of soil quality and biodiversity with the aim of minimising negative impacts; and
  - (v) that harvesting maintains or improves the long-term production capacity of the forest.
6. Biofuels, bioliquids and biomass fuels produced from forest biomass shall meet the following land-use, land-use change and forestry (LULUCF) criteria:
- (a) the country or regional economic integration organisation of origin of the forest biomass is a Party to the Paris Agreement; and:
    - (i) has submitted a Nationally Determined Contribution (NDC) to the United Nations Framework Convention on Climate Change (UNFCCC), covering emissions and removals from agriculture, forestry and land use which ensures that changes in carbon stock associated with biomass harvest are accounted towards the country's commitment to reduce or limit greenhouse gas emissions as specified in the NDC; or
    - (ii) has national or sub-national laws in place, in accordance with Article 5 of the Paris Agreement, applicable in the area of harvest, to conserve and enhance carbon stocks and sinks, and providing evidence that reported LULUCF-sector emissions do not exceed removals;
  - (b) where evidence referred to in point (a) of this paragraph is not available, the biofuels, bioliquids and biomass fuels produced from forest biomass shall be deemed to be compliant management systems are in place at forest sourcing area level to

ensure that carbon stocks and sinks levels in the forest are maintained, or strengthened over the long term.

7. The greenhouse gas emission savings from the use of biofuels, bioliquids and biomass fuels shall be:
  - (a) at least 50 % for biofuels, biogas consumed in the transport sector, and bioliquids produced in installations in operation on or before 5 October 2015;
  - (b) at least 60 % for biofuels, biogas consumed in the transport sector, and bioliquids produced in installations starting operation from 6 October 2015 until 31 December 2020;
  - (c) at least 65 % for biofuels, biogas consumed in the transport sector, and bioliquids produced in installations starting operation from 1 January 2021;
  - (d) at least 70 % for electricity, heating and cooling production from biomass fuels used in installations starting operation from 1 January 2021 until 31 December 2025, and 80 % for installations starting operation from 1 January 2026.

An installation shall be considered to be in operation once the physical production of biofuels, biogas consumed in the transport sector and bioliquids, and the physical production of heating and cooling and electricity from biomass fuels has started.

8. For the purposes of paragraph (7), the greenhouse gas emissions saving from the use of biofuel, bioliquids and biomass fuels shall be calculated in one of the following ways:
  - (a) where a default value for greenhouse gas emissions saving for the production pathway is laid down in Part A or B of Annex V of the Directive for biofuels and bioliquids and in Part A of Annex VI of the Directive for biomass fuels where the  $e_l$  value for those biofuels or bioliquids calculated in accordance with point 7 of Part C of Annex V of the Directive and for those biomass fuels calculated in accordance with point 7 of Part B of Annex VI of the Directive is equal to or less than zero, by using that default value;
  - (b) by using an actual value calculated in accordance with the methodology laid down in Part C of Annex V of the Directive for biofuels and bioliquids and in Part B of Annex VI of the Directive for biomass fuels;
  - (c) for bioliquids, by using a value calculated as the sum of the factors of the formulas referred to in point 1 of Part C of Annex V of the Directive, where disaggregated default values in Part D or E of Annex V of the Directive may be used for some factors, and actual values, calculated in accordance with the methodology laid down in Part C of Annex V of the Directive, are used for all other factors; or,

- (d) for biomass fuels, by using a value calculated as the sum of the factors of the formulas referred to in point 1 of Part B of Annex VI of the Directive, where disaggregated default values in Part C of Annex VI of the Directive may be used for some factors, and actual values, calculated in accordance with the methodology laid down in Part B of Annex VI of the Directive, are used for all other factors.



GIVEN under my Official Seal,  
12 July, 2022.

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

BAILE ÁTHA CLIATH  
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Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
BÓTHAR BHAILE UÍ BHEOLÁIN,  
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