



Energy Act 2004

2004 CHAPTER 20

PART 2

SUSTAINABILITY AND RENEWABLE ENERGY SOURCES

CHAPTER 5

RENEWABLE TRANSPORT FUEL OBLIGATIONS

128 Discharge of obligation by payment

- (1) An RTF order may provide that a person who does not wholly discharge his renewable transport fuel obligation for a period by the production of evidence must pay the Administrator the specified sum within the specified period.
- (2) The provision that may be made by virtue of subsection (1) includes, in particular, provision—
 - (a) for the specified sum to increase, in cases where that sum is not paid within a specified period, at the specified rate until it is paid or until the occurrence of a specified event;
 - (b) for specified amounts to be adjusted from time to time for inflation in the specified manner;
 - (c) for the repayment of sums in cases where provision made by virtue of section 127(7) applies in relation to a person;
 - (d) prohibiting the Administrator from taking steps to recover the specified sum or a part of that sum if specified conditions are satisfied.
- (3) Provision within subsection (2)(b) may refer, in particular, to a specified index or to other data, including any index or data as modified from time to time after the coming into force of the order.
- (4) An RTF order may provide that, in a case in which the amount of payments by virtue of subsection (1) which the Administrator has received by the specified time in respect

Changes to legislation: Energy Act 2004, Section 128 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

of renewable transport fuel obligations for any period falls short of the amount due in respect of that period, the persons who—

- (a) were subject to renewable transport fuel obligations for that period, and
- (b) are of a specified description,

must, within the specified period and in the specified circumstances, each make a payment (or further payment) to the Administrator of an amount calculated in the specified manner.

- (5) The provision that may be made by virtue of subsection (4) includes, in particular, provision for the making of adjustments and repayments after a requirement to make payments has already arisen.

[^{F1}(6) Where the Administrator is the Secretary of State—

- (a) sums received by the Administrator by virtue of this section must be paid into the Consolidated Fund, and
- (b) an RTF order may make provision for sums to be paid by the Administrator to transport fuel suppliers, or to transport fuel suppliers of a specified description, in accordance with the specified system of allocation.

- (7) Such an order must contain provision ensuring that the total of the sums so paid by the Administrator does not at any time exceed the total of the sums so received by the Administrator up to that time.

(8) Where the Administrator is a person other than the Secretary of State, an RTF order may—

- (a) require the Administrator to use, to the specified extent, sums received by the Administrator by virtue of this section for the purpose of meeting costs incurred in carrying out the Administrator's functions, or
- (b) require the Administrator to pay, to the specified extent, sums so received to the Secretary of State.

- (9) Sums so received which are not dealt with in accordance with provision made under subsection (8) must be paid by the Administrator to transport fuel suppliers, or to transport fuel suppliers of a specified description, in accordance with the specified system of allocation.

- (10) The Secretary of State must pay sums received by the Secretary of State by virtue of provision made under subsection (8)(b) into the Consolidated Fund.]

Textual Amendments

- F1** S. 128(6)-(10) substituted for s. 128(6)(7) (26.1.2009) by [Climate Change Act 2008 \(c. 27\)](#), s. 100(5), [Sch. 7 para. 4](#)
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Commencement Information

- II** S. 128 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), [Sch. 1](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 137(3)(c)-(e) inserted by [2011 c. 16 s. 117\(b\)](#)
- s. 173(2C) inserted by [2023 c. 52 Sch. 14 para. 10](#)
- Sch. 22 para. 4(1A) inserted by [2023 c. 52 Sch. 14 para. 11\(2\)\(b\)](#)