

2011 No. 243

ENERGY

**The Promotion of the Use of Energy from Renewable Sources
Regulations 2011**

<i>Made</i>	- - - -	<i>7th February 2011</i>
<i>Laid before Parliament</i>		<i>9th February 2011</i>
<i>Coming into force</i>	- -	<i>14th March 2011</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to energy and energy sources, makes the following Regulations in exercise of the powers conferred by that section:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Promotion of the Use of Energy from Renewable Sources Regulations 2011.

(2) These Regulations come into force on 14th March 2011.

(3) Except as provided in this regulation, these Regulations extend to England and Wales, Scotland and Northern Ireland.

(4) Regulation 5 extends to England and Wales and Scotland only.

(5) Regulation 6 extends to Northern Ireland only.

(6) Regulations 9 to 13 extend to England and Wales and Northern Ireland only.

Interpretation

2. In these Regulations—

“competent authority” means—

(a) in relation to England and Wales and Scotland, the Secretary of State;

(b) in relation to Northern Ireland, the Department of Enterprise, Trade and Investment;

“the Directive” means Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources(c);

“energy from renewable sources” has the meaning given by Article 2(a) of the Directive; and

(a) S.I. 2010/761.

(b) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

(c) OJ L 140, 5.6.2009, p.16.

“renewables share” means the share of energy from renewable sources in the United Kingdom as calculated in accordance with Article 5 of the Directive^(a).

Target for the renewables share in 2020

3. It is the duty of the Secretary of State to ensure that the renewables share in 2020 is at least 15%.

Duty to introduce measures

4.—(1) Except in relation to an indicative target period to which paragraph (2) applies, the Secretary of State must introduce measures effectively designed to ensure that the average renewables share for an indicative target period is at least the percentage specified in the second column of the Schedule to these Regulations in relation to that period.

(2) This paragraph applies in relation to an indicative target period (“the relevant period”) if—

- (a) the relevant period commences on 1st January 2013, 1st January 2015 or 1st January 2017; and
- (b) the average renewables share for the indicative target period immediately preceding the relevant period is less than the percentage specified in the second column of the Schedule to these Regulations in relation to that indicative target period.

(3) Where—

- (a) paragraph (2) applies and the relevant period commences on 1st January 2013, the Secretary of State must introduce adequate and proportionate measures to ensure that, within a reasonable period of time, the average renewables share for the two year period immediately preceding the date on which the calculation is made equals or exceeds 5.4%;
- (b) paragraph (2) applies and the relevant period commences on 1st January 2015, the Secretary of State must introduce adequate and proportionate measures to ensure that, within a reasonable period of time, the average renewables share for the two year period immediately preceding the date on which the calculation is made equals or exceeds 7.5%;
- (c) paragraph (2) applies and the relevant period commences on 1st January 2017, the Secretary of State must introduce adequate and proportionate measures to ensure that, within a reasonable period of time, the average renewables share for the two year period immediately preceding the date on which the calculation is made equals or exceeds 10.2%.

(4) The measures referred to in paragraphs (1) and (3) must include measures designed to increase the renewables share by promoting and encouraging energy efficiency and energy saving.

(5) The measures referred to in paragraphs (1), (3) and (4) may take into account—

- (a) measures introduced before these Regulations came into force; and
- (b) measures introduced or proposed by any other person or body.

(6) In this regulation, “indicative target period” means any of the periods referred to in the first column of the Schedule to these Regulations.

Adaptation costs review and statement of measures: Great Britain

5.—(1) The Secretary of State must ensure that an adaptation costs review is carried out at least once in any period of two years.

(2) The first adaptation costs review must be completed before 1st July 2011.

(a) Article 5(6) of the Directive provides for the share of energy from renewable sources to 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. Article 5 of the Directive makes provision for the calculation of the gross final consumption of energy from renewable sources and from all energy sources.

(3) After each adaptation costs review, the Secretary of State must publish a statement setting out such measures as the Secretary of State considers necessary to improve the rules for the apportionment of the costs of grid adaptations for new renewable generating stations.

(4) In this regulation—

“adaptation costs review” means a review of the rules for the apportionment of the costs of grid adaptations for new renewable generating stations between—

- (a) distribution licence holders;
- (b) transmission licence holders;
- (c) renewable generating stations requiring a connection to a grid;
- (d) generating stations already connected to a grid; and
- (e) any other person;

“distribution licence holder” has the same meaning as in Part 1 of the Electricity Act 1989(a);

“grid” means a transmission system or a distribution system within the meaning of Part 1 of the Electricity Act 1989(b);

“grid adaptations for new renewable generating stations” means such extensions and modifications to a grid as are necessary to enable a renewable generating station to connect to and convey electricity over the grid;

“renewable generating station” means a generating station generating electricity using energy from renewable sources; and

“transmission licence holder” has the same meaning as in Part 1 of the Electricity Act 1989(c).

Adaptation costs review and statement of measures: Northern Ireland

6.—(1) The Northern Ireland Authority for Utility Regulation (“the Northern Ireland Authority”) must ensure that an adaptation costs review is carried out at least once in any period of two years.

(2) The first adaptation costs review must be completed before 1st July 2011.

(3) After each adaptation costs review, the Northern Ireland Authority must publish a statement setting out such measures as the Northern Ireland Authority considers necessary to improve the rules for the apportionment of the costs of grid adaptations for new renewable generating stations.

(4) In this regulation—

“the 1992 Order” means the Electricity (Northern Ireland) Order 1992(d);

“adaptation costs review” means a review of the rules for the apportionment of the costs of grid adaptations for new renewable generating stations between—

- (a) transmission licence holders;
- (b) electricity distributors;
- (c) renewable generating stations requiring a connection to a grid;
- (d) generating stations already connected to a grid; and
- (e) any other person;

“electricity distributor” has the same meaning as in Part 2 of the 1992 Order(e);

(a) See sections 6 and 64 of the Electricity Act 1989. Relevant amendments were made by section 30 of the Utilities Act 2000 (c.27).

(b) 1989 c. 29 see sections 4 and 64. Relevant amendments were made by the Utilities Act 2000, section 28 and by the Energy Act 2004 (c.20), sections 89 and 135 and Schedule 19, paragraph 15.

(c) See sections 6 and 64 of the Electricity Act 1989. Relevant amendments were made by section 30 of the Utilities Act 2000 and section 136 of the Energy Act 2004.

(d) S.I. 1992/231 (N.I. 1).

(e) The definition of “electricity distributor” was inserted into article 3 of the 1992 Order by regulation 4(c) of the Electricity Regulations (Northern Ireland) 2007 (S.R. (NI) 2007 No 321).

“grid” means a transmission system or a distribution system within the meaning of Part 2 of the 1992 Order(a);

“grid adaptations for new renewable generating stations” and “renewable generating station” have the same meaning as in regulation 5; and

“transmission licence holder” means the holder of a licence under article 10(1)(b) of the 1992 Order(b).

Duty to ensure measures are taken to inform the public

7. The competent authority must ensure that measures are taken to inform the public of the benefits and practicalities of generating and using energy from renewable sources.

Duty to make available information about equipment and systems

8. The competent authority must make available such information as it considers appropriate about the benefits, costs, and energy efficiency of—

- (a) equipment and systems for the generation of electricity using energy from renewable sources; and
- (b) equipment and systems for heating or cooling using energy from renewable sources.

Duty to ensure guidance is available about the optimal combination of renewable energy, energy efficient technologies and district heating and cooling

9.—(1) The responsible authority must ensure that guidance is available to help any person to consider the optimal combination of—

- (a) energy from renewable sources,
- (b) technologies that are energy efficient, and
- (c) district heating and district cooling

when planning, designing, building or renovating industrial or residential areas.

(2) In paragraph (1)—

“district heating” and “district cooling” have the meaning given by Article 2(g) of the Directive; and

“responsible authority” means—

- (a) in relation to England, the Secretary of State;
- (b) in relation to Wales, the Welsh Ministers;
- (c) in relation to Northern Ireland, the Department of the Environment in Northern Ireland.

Duty to ensure guidance is available about support schemes

10.—(1) The responsible authority must ensure that guidance is available for the purpose of informing the persons specified in paragraph (2) about any support scheme made by the responsible authority.

(2) The persons specified in this paragraph are—

- (a) such of the following persons as the responsible authority considers are likely to be interested in the support scheme to which the guidance relates—
 - (i) suppliers and installers of equipment or systems for—

(a) See the definition of “distribute” in article 3 of the 1992 Order, which was inserted by regulation 4(b) of the Electricity Regulations (Northern Ireland) 2007. The definition of “transmission system” was inserted into article 3 of the 1992 Order by paragraph 1(1) of Schedule 3 to the Energy (Northern Ireland) Order 2003 (S.I. 2003/419) (N.I. 6).

(b) Article 10(1)(b) was substituted by article 28(4) of the Energy (Northern Ireland) Order 2003.

- (aa) heating;
 - (bb) cooling; or
 - (cc) the generation of electricity;
 - (ii) suppliers of vehicles compatible with the use of energy from renewable sources;
 - (iii) consumers;
 - (iv) builders;
 - (v) architects; and
 - (b) any other person that the responsible authority considers is likely to be interested in the support scheme to which the guidance relates.
- (3) In this regulation—
- “responsible authority” means—
- (a) in relation to England and Wales, the Secretary of State;
 - (b) in relation to Northern Ireland, the Department of Enterprise, Trade and Investment; and
- “support scheme” has the meaning given by Article 2(k) of the Directive.

Duty to take steps to ensure certain public buildings fulfil an exemplary role

11.—(1) The responsible authority must take such steps as it considers appropriate to ensure that a public building—

- (a) constructed after 31st December 2011; or
- (b) undergoing major renovation after that date

fulfils an exemplary role in the context of the Directive.

(2) In paragraph (1)—

“public building” means a building owned by a person or body with functions of a public nature; and

“responsible authority” means—

- (a) in relation to England, the Secretary of State;
- (b) in relation to Wales, the Welsh Ministers;
- (c) in relation to Northern Ireland, the Northern Ireland Department responsible for matters concerning the role played by public buildings in the context of the Directive (if more than one department is responsible, the reference is to every one of them).

Duty to ensure certification or qualification schemes are established and to make information available

12.—(1) The responsible authority must ensure that certification or qualification schemes are established by 31st December 2012 for installers of the equipment specified in paragraph (2).

(2) The equipment specified in this paragraph is small scale—

- (a) biomass boilers;
- (b) biomass stoves;
- (c) solar photovoltaic systems;
- (d) solar thermal systems;
- (e) shallow geothermal systems; and
- (f) heat pumps.

(3) In relation to the duty in paragraph (1)—

- (a) the certification or qualification schemes may take into account schemes and structures established before these Regulations come into force; and

(b) the certification or qualification schemes must be based on the criteria set out in Annex 4 to the Directive.

(4) The responsible authority must make available to the public such information with respect to the schemes established in accordance with this regulation as the responsible authority considers appropriate.

(5) For the purpose of paragraph (2), equipment is small scale if the capacity of the equipment to generate electricity or (as the case may be) to produce heat does not exceed the capacity mentioned in paragraph (6).

(6) That capacity is—

- (a) in relation to the generation of electricity, 50 kilowatts;
- (b) in relation to the production of heat, 45 kilowatts thermal.

(7) In this regulation “responsible authority” means—

- (a) in relation to England and Wales, the Secretary of State;
- (b) in relation to Northern Ireland, the Department of Enterprise, Trade and Investment.

Duty to recognise certificates

13.—(1) A responsible authority must recognise a certificate which is—

- (a) issued in accordance with the criteria set out in Annex 4 to the Directive (certification of installers of small scale biomass boilers, biomass stoves, solar photovoltaic systems, solar thermal systems, shallow geothermal systems and heat pumps); and
- (b) issued by or on the authority of an EEA State.

(2) Paragraph (1) imposes no obligation on a responsible authority to satisfy itself that the certificate has been properly issued.

(3) Recognition for the purposes of paragraph (1) shall be in such form as the responsible authority may determine.

(4) In this regulation “responsible authority” means any Northern Ireland Minister, Minister of the Crown, government department, public body of any description or person holding a public office.

Charles Hendry
Minister of State

7th February 2011

Department of Energy and Climate Change

SCHEDULE

Regulation 4

Indicative targets

<i>Indicative target period</i>	<i>Percentage</i>
1st January 2011 to 31st December 2012	4%
1st January 2013 to 31st December 2014	5.4%
1st January 2015 to 31st December 2016	7.5%
1st January 2017 to 31st December 2018	10.2%

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transpose Articles 3(1), 3(2), 13(5), 14 and 16(4) of Directive 2009/28/EC of the European Parliament and of the Council of 23rd April 2009 on the promotion of the use of energy from renewable sources (“the Directive”).

Regulation 3 sets a target of at least 15% for the share of energy from renewable sources in the United Kingdom in 2020.

Regulation 4(1) imposes a duty on the Secretary of State to introduce measures effectively designed to ensure the indicative targets as set out in the Schedule are met. Regulations 4(2) and 4(3) modify that duty in the event that an indicative target is missed.

Regulations 5 and 6 require a review to be carried out, at least once every two years, of the rules for the apportionment of the costs of the grid adaptations which are necessary to enable new renewable generating stations to connect to a grid. After each review, regulations 5 and 6 require the publication of a statement as to the measures considered to be necessary to improve those rules.

Regulations 7 and 8 impose duties on the Secretary of State and on the Department of Enterprise, Trade and Investment to ensure that measures are taken to inform the public of the benefits and practicalities of generating and using energy from renewable sources and to make available certain information.

Regulation 9 imposes a duty on the Secretary of State, the Department of the Environment in Northern Ireland and the Welsh Ministers to ensure that certain guidance is available.

Regulation 10 imposes a duty on the Secretary of State and on the Department of Enterprise, Trade and Investment to ensure that guidance is available about any support scheme made by them. Support scheme is defined as having the meaning given by the Directive.

Regulation 11 imposes a duty on the Secretary of State, the responsible Northern Ireland Department(s) and the Welsh Ministers to take such steps as they consider appropriate to ensure certain public buildings fulfil an exemplary role in the context of the Directive.

Regulation 12 imposes duties on the Secretary of State and on the Department for Enterprise, Trade and Investment to ensure that certification or qualification schemes for installers of certain small scale equipment are established by 31st December 2012, and to make available such information with respect to those schemes as they consider appropriate.

Regulation 13 requires Ministers, government departments, public bodies and persons holding a public office to recognise certification issued, by an EEA State, in accordance with the criteria set out in Annex 4 to the Directive. That annex sets out criteria for certification schemes for installers of small-scale biomass boilers and stoves, solar photovoltaic and solar thermal systems, shallow geothermal systems and heat pumps.

A full regulatory impact assessment has not been produced for this instrument. A transposition note is annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk.

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