

## Summary of the Renewable Energy Directive

Below is a summary of the main points in the [Renewable Energy Directive](#), as published in the Official Journal of the European Union on 5 June 2009. There are slight differences to the numbering between this and the version agreed by the European Parliament on 17 December 2008. The deadline for implementation is 5 December 2010.

This summary has the following sections:

- Legal basis
- Targets
- Trading
- National Action Plans
- Biomass
- Administrative procedures, regulations and codes
- Information and training
- Guarantees of Origin
- Access to and operation of the grids
- Specific provisions for biofuels and bioliquids
- Publically available information
- 'Comitology'

Although a summary is presented below it is no substitute for reading the Directive itself.

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### Legal basis

The legal basis for the Directive comes from the EU treaty:

- Article 175(1) – sets the rules for decision-making on environmental laws. This is the basis for most of the Directive
- Article 95 – sets the rules on harmonisation of internal market legislation. This is the basis for Articles 17-19

Because of the legal basis in article 95, Member States cannot unilaterally set higher (or lower) sustainability standards for biofuels and bioliquids than those specified in the Directive – article 17(8)

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### Targets (articles 3, 5 & annex I)

- The UK target is 15%
- The UK's interim targets are 4.0% for 2011/2012, 5.4% for 2013/2014, 7.5% for 2015/2016 and 10.2% 2017/2018, the first two of these interim targets were reduced from the Commission's first draft in January 2008
- All Member States have the same transport target – 10% of final consumption of energy in all forms of transport to be renewable in 2020. See 'transport target' below for further details
- Each Member State will have to submit a report on progress towards its targets by 31 December 2011 and every 2 years following that, with the sixth report submitted by 31 December 2021
- Member States have the right to decide the extent they support renewable energy generated in other Member States
- If a Member State finds due to Force Majeure it is impossible to meet its share of energy from renewable sources it will have to notify the Commission as soon as possible and the Commission will have to decide whether Force Majeure has occurred and what the adjustment to the Member State target will be

- The % of energy consumed from aviation included in a Member State's target is limited to 6.18% and to 4.12% for Cyprus and Malta - article 5(6)
- With the aim of improving finance and coordination, the Commission will produce a report by 31 December 2010 on finance and support schemes
- In 2018 the Commission is required to present a Renewable Energy Roadmap for the post-2020 period
- In 2021 the Commission is required to published a report reviewing the application of this Directive

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### Transport target (article 3)

- Non-road transport is excluded from the 10% target for the purposes of calculating the total amount of energy consumed in transport. However, any renewable energy used for these forms (i.e. aviation, trains) still counts towards meeting the overall target - article 3(4)
- For electric vehicles, Member States can use either the EU average or their own national average (as measured two years previously) for the % of electricity that is renewable. Energy content will be deemed to be 2.5 times the energy content of the renewable electricity input - article 3(4)(c)
- Biofuels produced from 'wastes, residues, non-food cellulosic material, and ligno-cellulosic material' shall count two times for national obligations (i.e. the RTFO) and the 2020 transport target. Note, this only applies to transport biofuels and not bioliquids for heat or electricity - article 21(2). Member States may offer additional incentives for such biofuels in accordance with State Aid rules

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### Trading (articles 6 - 11)

- Member State's Governments can make statistical transfers between themselves of quantities of renewable energy i.e. if one country expects to exceed its target it can sell some of its overspill to another country to go towards that country's target
- Member States can only transfer renewable energy from their country if it will not be to the detriment of the Member State meeting its own target
- Member States can cooperate on joint projects for renewable electricity, heating or cooling and have to inform the Commission on the proportion of the renewable electricity that each Member State will count towards its target
- Member States can count renewable electricity from joint projects in non EU countries provided the electricity has booked interconnector capacity for all necessary interconnectors between the origin and destination countries. Exception is made where an interconnector is not yet operational but has been started by 2016 and due to become operational by 2022. The project can also only count if it has not received support from the third country
- Member States can, if they wish, coordinate their national support schemes
- Renewable energy consumed in one country can count towards another's target if there is a statistical transfer or a distribution rule allocating the amount of renewable energy between Member States
- Only installations or additional capacity built after the Directive comes into effect can be counted under the joint project and statistical transfer provisions

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### National Action Plans (article 4)

- To be notified to the Commission by 30 June 2010 and a forecast document six months before including the extent to which it expects the renewable energy to be consumed in other countries or consumed in its country but counted towards another country's target
- The Commission has the power to issue a recommendation if it considers the action plan to be inadequate.

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### Biomass (article 2, article 17)

- Includes biodegradable fraction of industrial and municipal waste
- Member States are required to report information on the biodegradable fraction of waste and what steps have been taken to improve and verify such estimates – article 22(1)(n)
- The Commission to report by end 2009 on a possible sustainability scheme for other electricity and heating and cooling uses of biomass – article 17(9)

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### Administrative procedures, regulations and codes (article 13)

- Several fairly lengthy paragraphs require Member States to ensure that administrative processes are all sorts of good things (e.g. proportionate, necessary, streamlined, non discriminatory, etc.) and that charges are transparent and cost-related, with simplified, less burdensome procedures for small projects. This covers national, regional and local administrative procedures. Spatial planning is specifically mentioned. Wherever possible requirements should be expressed using European-wide standards
- Building regulations are to promote renewables, and from 2012 onwards new and renovated public buildings are to fulfil an exemplary role
- For biomass, conversion efficiencies of at least 85% for residential and commercial applications and at least 70% for industrial applications are *required*
- Heat pumps which fulfil the minimum requirements of eco-labelling established in Decision 2007/742/EC and solar thermal equipment and systems certified using European standards (where these exist) shall be *promoted*

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### Information and training (article 14)

- Several paragraphs expand on how information is to be made available to all those that need it, by equipment or system suppliers or national competent authorities and specify what this information should comprise
- Qualification / certification schemes shall be available for installers of small scale systems (not defined in terms of size) by 31 December 2012. Info on these schemes is to be made available to the public, and qualified installers are to be listed. Member States are to recognise each other's schemes
- Guidance to be made available for planners and architects etc so that they can properly consider using renewables

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### Guarantees of Origin (article 15)

- Guarantees of Origin are to be used to demonstrate the amount of renewable energy in a supplier's fuel mix, these can be traded between suppliers across countries but only affect suppliers' fuel mixes. They do not affect the country's achievement towards its targets, this remains the role of statistical transfer and joint schemes.
- Guarantees of Origin must be issued in response to a request from a producer of renewable electricity and may be issued for renewable heating and cooling
- There may be a minimum capacity limit below which the Member State chooses not to issue a Guarantee of Origin
- Guarantees of Origin will be issued for each MWh rather than kWh
- Member States must ensure the same unit of renewable energy is only taken into account once (unlike the potential for it to be taken into account more than once under the current UK system)
- Member States can make suppliers provide information on the amount of energy from renewable sources that have become operational after April 2010 if the suppliers are marketing the energy as from renewable sources
- Member States can refuse to give support to a producer that receives a Guarantee of Origin
- Guarantees of Origin will have to include:
  - Whether it is for electricity, heating or cooling
  - The energy source
  - The start and end date of production
  - the capacity of the installation
  - whether it has benefited from support and the type of support scheme
  - Commissioning date
  - Date and country of issue and a unique identification number

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### Access to and operation of the grids (article 16)

- A key difference is that Member States shall provide for either priority access **or** guaranteed access to the grid system. Previously it said Member States “*may* provide for priority access” (italics added)
- It does not explain exactly what is meant by either priority access or guaranteed access (although REA's enquiries have clarified that the Commission only ever intended that “priority access” was a concept applying to existing plants - which does not help with respect to our problem in the UK – i.e. getting timely access)
- However, additional requirements have been added to paragraph (5) which may help - Member States shall require network operators to provide new connections with information including a “reasonable approximative timetable for any proposed grid connection.”
- There are still the same requirements not to discriminate against peripheral, low population density or island locations
- A new requirement is that Member States shall review rules and cost sharing arrangements by 30th June 2011 and every 2 years thereafter, to ensure they accommodate renewables

- For renewable gas:- Charging of transmission and distribution tariffs must not discriminate against renewable gas and operators of these networks must publish technical rules in accordance with article 6 of the 2003 directive concerning common rules for the internal market in natural gas
- For heating and cooling:- Member States' national action plans shall assess necessity of building heating and cooling infrastructure

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#### Mandatory sustainability criteria for biofuels and bioliquids (article 17)

- The criteria apply equally to biofuels and 'bioliquids' used in other support schemes - including the Renewables Obligation and any tariff-based scheme for heat or electricity – article 17(1)
- Minimum GHG saving relative to fossil fuels of 35% (only applies to existing installations producing the biofuel or bioliquid from April 2013) – article 17(2)
- Minimum saving rises to 50% from 2017. New installations producing the biofuel or bioliquid from 2017 must meet 60% minimum – article 17(2)
- Biofuels and bioliquids must not be made from land with high biodiversity value: primary forest, highly-biodiverse natural grassland, other designated habitats – article 17(3)
- Biofuels and bioliquids must not be made from land that had high carbon stock in January 2008 but no longer has that status: wetlands, continuously forested areas, peatland – article 17(4)
- Environmental cross-compliance rules apply for EU-produced feedstock – article 17(6). No such rules apply for third countries, although the Commission to report every two years on soil, water and air protection measures in **all** producer countries – article 17(7)
- The Commission to report every two years on social impacts of the EU's biofuel policy: food security (especially in developing countries), land use rights and wider development issues – article 17(7)

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#### Auditing and compliance for biofuels and bioliquids (article 18)

- Mass balance system to be used. Book and claim to be evaluated by the Commission in 2010 and 2012 – article 18(1) and (2)
- The Commission to draw up a list of the information that 'economic operators' will have to submit to their national Governments. This information will be made public – article 18(3)
- The Community 'shall endeavour to conclude' agreements with third countries – article 18(4) - which can be used to demonstrate compliance – article 18(7). The Commission may also certify voluntary national or international schemes as demonstrating compliance. Both cases are subject to the procedures laid out in article 25. Where evidence has been produced under such a scheme, Member States may not require further evidence from the supplier – article 18(7). Approvals valid for a maximum of five years – article 18(6)
- The Commission to report in 2012 at the latest on the effectiveness of the system, and feasibility of introducing mandatory sustainability criteria for air, soil and water protection – article 18(9)

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### Greenhouse gas calculations (article 19)

Default values are provided for most pathways in annex V. Default or actual values (or a combination of the two) may be used. The defaults will be reviewed every two years. Some points:

- The defaults for biodiesel from rapeseed and soybean do not pass the 35% minimum saving
- Palm oil only passes with methane capture at the mill
- Wheat ethanol only passes with natural gas or straw as process fuel for CHP plant
- The default value for biodiesel from tallow (83%) does not apply to category 3 material – although this does not mean that category 3 tallow is necessarily excluded from support schemes. Such an idea also sits oddly with the requirement in Article 21(2) that transport biofuels made from wastes and residues should count double
- Default values (as in parts A and D of annex V) can be used for feedstocks grown outside the EU. Real values must be used for feedstock grown in the EU unless the member state includes them in a list of areas where typical GHG emissions are lower than or equal to the default values – article 19(2)

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### Indirect land use change and GHG calculations (article 19/annex V)

- The Commission to report by end 2010 on the GHG impacts of indirect land use change. 'Where appropriate' to propose a concrete methodology, 'based on the best available scientific evidence' – article 19(6)
- If an indirect effects methodology is applied, no biofuel produced from an installation that was operational in 2013 shall be excluded until the end of 2017, if it:
  - would otherwise have met the Directive's sustainability criteria, and
  - achieves GHG savings of at least 45% - article 19(6)
- The European Parliament and the Council 'shall endeavour to decide in 2012 at the latest' on any such proposals – article 19(6)
- In addition, biofuels and bioliquids will receive a GHG 'bonus' of 29gCO<sub>2</sub>eq/MJ if the biomass was obtained from severely degraded or heavily contaminated land – annex V C 7-9

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### Monitoring and reporting by the Commission (article 23)

- The Commission to monitor direct and indirect impacts of biofuels
- The Commission to report at the latest in 2014 on:
  - Level of minimum GHG thresholds to apply from 2017 (currently 50% for pre-existing and 60% for new plant)
  - Cost-efficiency of biofuels policy, as well as commercial availability of 'second generation biofuels' and electric, hybrid and hydrogen-powered vehicles
  - Effectiveness of the co-operation mechanisms – article 23(8)
- The Commission to propose changes, if appropriate, to the GHG threshold and co-operation mechanisms as a result – but this is not to affect the overall 2020 targets

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### Transparency platform (article 24)

The Commission will make public

- Member States' action plans
- Member States' proposed statistical transfers and joint projects where the Member State agrees
- Member States' national progress reports

- Relevant reports by the Commission

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**Comitology (article 25)**

- The Commission will be assisted in matters relating to biofuels and other bioliquids by a 'committee on the sustainability of biofuels and other bioliquids'. This committee will be made up of representatives from the Member States – article 25(2)
- On other matters within the Directive the Commission will be assisted by a parallel 'Committee on Renewable Energy Sources' – article 25(1)

Renewable Energy Association  
17 December 2008  
Revised 11 February, 10 June 2009