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TOWARDS LOW-CARBON TRANSPORT: LATEST AMENDMENTS TO THE UK'S RTFO REGIME

The Renewable Transport Fuel Obligations (Amendment) Order 2021 (the "2021 Amendment Order"), which came into force on 1 January 2022, makes important changes to the UK's renewable transport fuel obligation ("RTFO") regime

The RTFO regime before the 2021 Amendment Order

The RTFO was introduced by the Renewable Transport Fuel Obligations Order 2007 (the "2007 RTFO Order") and has been in operation since April 2008.¹ It plays a key role in promoting the use of renewable transport fuels ("RTFs") and reducing greenhouse gas ("GHG") emissions.

Under the RTFO regime prior to the 2021 Amendment Order, suppliers of fossil fuels for use in road vehicles, aircraft or non-road mobile machinery ("NRMM") had to supply a quantity of sustainable biofuel, calculated by reference to a percentage of the overall volume of fuel that they supplied to their customers.

The RTFO scheme applied to "Obligated Suppliers", defined as refiners, importers and other suppliers of fossil-based road, aircraft and NRMM fuel who owned and supplied - at the point at which fuel excise duty became payable - over 450,000 litres of "relevant hydrocarbon oil" (including petrol, diesel, gasoil and RTFs) in the UK in the relevant obligation period².

Renewable fuels of non-biological origin ("RFNBOs") used in maritime applications were also covered.

Obligated Suppliers could fulfil their annual RTFO obligation either by supplying sustainable RTFs, such as bioethanol or biodiesel, for which renewable transport fuel certificates ("RTFCs") were issued, purchasing RTFCs from other suppliers or paying a specified sum for each litre of fuel to "buy out" their obligation.

Changes to the RTFO regime made in 2018³ introduced a limit on the quantity of crop-based biofuels that could count towards a supplier's obligation, to ensure sustainable use of crop-based biofuels, to account for indirect land use changes and to encourage the use of fuels derived from waste (e.g. FAME from used cooking oil and tallow). They also introduced a new obligation on Obligated Suppliers relating to emerging renewable fuels, classified as development fuels (e.g. those made from sustainable wastes or residues). This meant suppliers now had to meet two obligations in each annual obligation period: the 'main obligation' and the 'development fuel target'.

The RTFO regime is regulated by the UK Department for Transport ("DfT"), which issues RTFCs (generally one RTFC for every litre of biofuel supplied) and publishes guidance each RTFO obligation year. This sets out details of the carbon and sustainability criteria to be met in order for biofuel to qualify for RTFCs and lists eligible feedstocks. It also provides information as to RTFs which are eligible for additional RTFCs, so-called double-counting biofuels.

What changes have been implemented by the 2021 Amendment Order?

In September 2021, the UK Government published a draft of the 2021 Amendment Order, under which existing RTFO obligations were to be amended to increase carbon savings in relation to road, rail, air and sea transport. The key changes to the RTFO regime implemented by the 2021 Amendment Order (and which apply to renewable transport fuel supplied after 1 January 2022) are:

¹ The 2007 RTFO Order has been subject to a number of legislative amendments since it came into effect in April 2008.

² The current RTFO obligation period commenced on 1 January 2022.

³ The RTF and GHG Regulations 2018

- **Increased RTFO targets:** Article 4 of the 2007 RTFO Order has been amended to increase the main RTFO obligation from 9.6% to 14.6% over the ten year period from 2022 to 2032⁴. To put this in context, the resulting emissions reductions are expected to be equivalent to the removal of 1.9 million cars from UK roads by 2032.
- **RTFO scheme extended to seagoing vessels:** In the maritime context, the definition of "non-road" applications was previously limited to inland waterway vessels and craft that do not normally operate at sea, so excluding ocean going vessels. This limitation has been removed, ensuring that RFNBOs supplied for use in ships are now eligible for RTFCs and potentially paving the way for RFNBOs as a growth industry to drive shipping decarbonisation.
- **RFNBOs for fuel cell propulsion:** RFNBOs include renewable hydrogen and power-to-liquid fuels, but until now RTFCs for RFNBOs have been limited to applications using combustion engines in NRMM. RFNBOs will now be eligible for RTFCs relating to applications that use fuel cell propulsion, which is the norm in rail, non-road vehicles and heavy NRMM.
- **Revised GHG emissions criteria:** All renewable fuel must meet updated minimum GHG emissions savings thresholds.
- **Sustainability - Land, forest and soil carbon criteria:** There is a new definition of sustainable feedstock. Feedstock consisting of forest biomass must meet new forest criteria. Feedstock consisting of residues or wastes from agriculture must meet new soil carbon criteria as well as land criteria, which have been strengthened to protect highly biodiverse wooded land⁵.

Why is this significant?

The 2021 Amendment Order aims to enhance the RTFO regime, so that renewable fuels continue to play a key part in reducing GHG emissions across multiple sectors as the UK transitions towards a low carbon and sustainable economy. The RTFO regime has been amended to ensure that, as targets for the supply of renewable energy increase, such fuels continue to deliver significant reductions in GHG emissions and meet robust sustainability criteria (which are compatible with those applicable in the EU under the recast Renewable Energy Directive⁶). The UK's sixth carbon budget requires reductions in emissions of 78% by 2035 (compared to 1990 levels). Renewable fuels will play an essential role in reducing emissions from the existing road fleet and will also be important in the longer term in transport sectors such as aviation and maritime, where options for decarbonisation are more limited.

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⁴ 1.5% of this increased target is to be met in 2022 to maximise the carbon savings from the increase from E5 to E10 for bioethanol in petrol in September 2021.

⁵ Schedules 2 and 3 respectively of the 2021 Amendment Order introduce the new forest and soil carbon criteria.

⁶ 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.

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