L.N. 538 of 2010

MALTA RESOURCES AUTHORITY ACT (CAP. 423)

Promotion of Energy from Renewable Sources Regulations, 2010

IN exercise of the powers conferred by sub-article (1) of article 28 of the Malta Resources Authority Act, the Minister for Resources and Rural Affairs, after consultation with the Malta Resources Authority, has made the following regulations:-

Citation, entry into force and scope.

1. (1) The title of these regulations is the Promotion of Energy from Renewable Sources Regulations, 2010.

(2) These regulations shall come into force on the 5th December, 2010.

(3) These regulations transpose 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.

Interpretation.

2. In these regulations, unless the context otherwise requires:-

"the Act" means the Malta Resources Authority Act;

"aerothermal energy" means energy stored in the form of heat in the ambient air;

"the Authority" means the Malta Resources Authority established by article 3 of the Act;

"biofuels" means liquid or gaseous fuel for transport produced from biomass;

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

"biomass" means the biodegradable fraction of products, waste and residues from biological origin from agriculture

(including vegetal and animal substances), forestry and related industries including fisheries and aquaculture, as well as the biodegradable fraction of industrial and municipal waste;

"the Community" means the European Community;

"energy from renewable sources" means energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;

"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, including the consumption of electricity and heat by the energy branch for electricity and heat production and including losses of electricity and heat in distribution and transmission;

"hydrothermal energy" means energy stored in the form of heat in surface water;

"the Minister" means the Minister responsible for resources;

"Regulation (EC) No 1099/2008" means Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics published in the Official Journal L 304, 14.11.2008, p. 1;

"renewable energy obligation" means a national support scheme requiring energy producers to include a given proportion of energy from renewable sources in their production, requiring energy suppliers to include a given proportion of energy from renewable sources in their supply, or requiring energy consumers to include a given proportion of energy from renewable sources in their consumption. This includes schemes under which such requirements may be fulfilled by using green certificates;

"support scheme" means any instrument, scheme or mechanism 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 otherwise, the volume of such energy purchased. This includes, but is not restricted to, investment aid, tax exemptions or reductions, tax refunds, renewable energy obligation support schemes including those using green certificates, and direct price support schemes including feed-in tariffs and premium payments.

National overall target.

3. The share of energy from renewable sources in gross final consumption of energy in 2020 shall be at least the national overall target for the share of energy from renewable sources of 10%.

Share of energy from renewable sources in transport sector.

4. The share of energy from renewable sources in all forms of transport in 2020 shall be at least 10 % of the final consumption of energy in transport. For the purpose of this requirement, the following shall apply:

(a) for the calculation of the denominator, that is the total amount of energy consumed in transport for the purposes of calculating the share of energy from renewable sources in all forms of transport in 2020, only petrol, diesel, biofuels consumed in road and rail transport, and electricity shall be taken into account;

(b) for the calculation of the numerator, that is the amount of energy from renewable sources consumed in transport for the purposes of calculating the share of energy from renewable sources in all forms of transport in 2020, all types of energy from renewable sources consumed in all forms of transport shall be taken into account;

(c) for the calculation of the contribution from electricity produced from renewable sources and consumed in all types of electric vehicles for the purpose of paragraphs (a) and (b) of this regulation, there shall be used either the average share of electricity from renewable energy sources in the Community or the share of electricity from renewable energy sources in Malta as measured two years before the year in question. Furthermore, for the calculation of the electricity from renewable energy sources consumed by electric road vehicles, that consumption shall be considered to be 2.5 times the energy content of the input of electricity from renewable energy sources.

Calculation of the share of energy from renewable sources.

5. (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 energy sources;

(b) gross final consumption of energy from renewable sources for heating and cooling; and

(c) final consumption of energy from renewable sources in transport.

(2) Gas, electricity and hydrogen from renewable energy sources shall be considered only once for the purposes of paragraphs (a), (b) or (c) of subregulation (1), for calculating the share of gross final consumption of energy from renewable sources.

(3) Without prejudice to the provisions of the Biofuels (Sustainability Criteria) Regulations, 2010, biofuels and bioliquids that do not fulfill the sustainability criteria set out in those regulations shall not be taken into account for the purposes of the calculation of the gross final consumption of energy from renewable sources.

(4) For the purposes of paragraph (a) of subregulation (1), gross final consumption of electricity from renewable energy sources shall be calculated as the quantity of electricity produced in Malta from renewable energy sources, excluding the production of electricity in pumped storage units from water that has previously been pumped uphill. In multi-fuel plants using renewable and conventional sources, only the part of electricity produced from renewable energy sources shall be taken into account. For the purposes of this calculation, the contribution of each energy source shall be calculated on the basis of its energy content. The electricity generated by hydropower and wind power shall be accounted for in accordance with the normalisation rules set out in the First Schedule to these regulations.

(5) Aerothermal, geothermal and hydrothermal heat energy captured by heat pumps shall be taken into account for the purposes of paragraph (b) of subregulation (1), provided that the final energy output significantly exceeds the primary energy input required to drive the heat pumps.

(6) The quantity of heat to be considered as energy from renewable sources for the purposes of these regulations shall be calculated in accordance with the methodology laid down in the Third Schedule to these regulations.

(7) 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 (b) of subregulation (1).

(8) The energy content of the transport fuels listed in the Second Schedule to these regulations shall be taken to be as set out in that Schedule.

(9) 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. For the purposes of subregulation (1), the sum referred to in subregulation (1) shall be adjusted to take into account, whenever applicable:

(a) statistical transfers with other Member States;

(b) the effects of joint projects with other Member States and the effects of joint projects with other Member States and third countries;

(c) joint support schemes, when carried out in accordance with Malta's international obligations.

Amount of energy consumed in aviation.

6. In calculating the gross final energy consumption for the purpose of measuring Malta's compliance with the targets and indicative trajectory laid down in Directive 2009/28/EC, the amount of energy consumed in aviation shall, as a proportion of the gross final consumption of energy, be considered to be no more than 4.12 %.

Regulation (EC) No 1099/2008.

7. 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 on energy statistics.

Amended National Renewable Energy Action Plan.

8. The Minister shall submit an amended national renewable energy action plan to the Commission by the 30th June of the following year from when the share of energy from renewable

sources falls below the indicative trajectory in the immediately preceding two-year period set out in the Fourth Schedule. The amended national renewable energy action plan shall set out adequate and proportionate measures to rejoin, within a reasonable timetable, the indicative trajectory in the Fourth Schedule.

Revokes L.N. 186 of 2004.

9. The Promotion of Electricity produced from Renewable Energy Sources Regulations are hereby being revoked.

FIRST SCHEDULE

Regulation 5(4)

Normalisation rule for accounting for electricity generated from hydropower and wind power

The following rule shall be applied for the purpose of accounting for electricity generated from hydropower

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

where:

N = reference year;

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

Q_i = the quantity of electricity actually generated in year *i* by all hydropower plants 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 at the end of year *i*, measured in MW.

The following rule shall be applied for the purpose of accounting for electricity generated from wind power:

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

where:

N = reference year;

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

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

C_j = the total installed capacity of all the wind power plants 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, whichever is lower.

SECOND SCHEDULE

Regulation 5(8)

Energy content of transport fuels

Fuel	Energy content by weight (lower calorific value, MJ/kg)	Energy content by volume (lower calorific value, MJ/l)
Bioethanol (ethanol produced from biomass)	27	21
Bio-ETBE (ethyl-tertio-butyl-ether produced on the basis of bioethanol)	36 (of which 37 % from renewable sources)	27 (of which 37 % from renewable sources)
Biomethanol (methanol produced from biomass, to be used as biofuel)	20	16
Bio-MTBE (methyl-tertio-butyl-ether produced on the basis of bio-methanol)	35 (of which 22 % from renewable sources)	26 (of which 22 % from renewable sources)
Bio-DME (dimethylether produced from biomass, to be used as biofuel)	28	19
Bio-TAEE (tertiary-amyl-ethyl-ether produced on the basis of bioethanol)	38 (of which 29 % from renewable sources)	29 (of which 29 % from renewable sources)
Biobutanol (butanol produced from biomass, to be used as biofuel)	33	27
Biodiesel (methyl-ester produced from vegetable or animal oil, of diesel quality, to be used as biofuel)	37	33
Fischer-Tropsch diesel (a synthetic hydrocarbon or mixture of synthetic hydrocarbons produced from biomass)	44	34
Hydrotreated vegetable oil (vegetable oil thermochemically treated with hydrogen)	44	34
Pure vegetable oil (oil produced from oil plants through pressing, extraction or comparable procedures, crude or refined but chemically unmodified, when compatible with the type of engines involved and the corresponding emission requirements)	37	34
Biogas (a fuel gas produced from biomass and/or from the biodegradable fraction of waste, that can be purified to natural gas quality, to be used as biofuel, or wood gas)	50	—

Petrol	43	32
Diesel	43	36

THIRD SCHEDULE

Regulation 5(6)

Accounting of energy from heat pumps

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

$$E_{RES} = Q_{usable} * (1 - 1/SPF)$$

where

— Q_{usable} = the estimated total usable heat delivered by heat pumps fulfilling the criteria referred to in regulation 5(5), 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 those heat pumps,

— η 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.

FOURTH SCHEDULE

Regulation 8

Indicative trajectory

The indicative trajectory shall consist of the following shares of energy from renewable sources:

$S_{2005} + 0.20(S_{2020} - S_{2005})$, as an average for the two-year period 2011 to 2012;

$S_{2005} + 0.30(S_{2020} - S_{2005})$, as an average for the two-year period 2013 to 2014;

$S_{2005} + 0.45(S_{2020} - S_{2005})$, as an average for the two-year period 2015 to 2016; and

$S_{2005} + 0.65(S_{2020} - S_{2005})$, as an average for the two-year period 2017 to 2018,

where

S_{2005} = 0,0%,
and
S_{2020} = 10%

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