EXPLANATORY MEMORANDUM TO

THE RENEWABLE TRANSPORT FUEL OBLIGATIONS (AMENDMENT) ORDER 2011

2011 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

   This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the Instrument

2.1. This Order transposes the transport-related requirements of 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, commonly known as the Renewable Energy Directive.

2.2. This Directive requires Member States to ensure that 10 per cent of the energy used in transport is from renewable sources in 2020, as well as requiring the introduction of mandatory sustainability criteria for biofuels.

2.3. The UK already has a scheme in place that requires fossil fuel suppliers to supply specific volumes of biofuel: the Renewable Transport Fuel Obligation. The most expedient way of transposing the transport-related requirements of the Renewable Energy Directive is through amendment of the Renewable Transport Fuel Obligations Order 2007 (as amended).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. This Order will come into force on the next 15th day of a month after it is made. The use of this formula will ensure that the new obligations imposed by the Order, and in particular those relating to the sustainability of biofuels, will take effect in line with the cycle of fuel duty payment for the majority of fuel supplied into the UK. This will significantly simplify the transition from the old to the new scheme for transport fuel suppliers.

3.2. The definition of "the directive" inserted by article 3 of the Order provides that references to Annex V of the Directive shall be construed as a reference to that Annex as amended from time to time. An ambulatory reference has been used to this limited extent as Annex V is likely to be subject to frequent updates and amendments of a purely technical nature. The ambulatory reference will avoid the need frequently to amend the Order both as new biofuel technologies develop and as research allows for the increasingly precise quantification of the environmental impacts referable to particular biofuel production processes.

3.3. The Order does not include the standard form review clause because it is a tax measure and so falls outside the scope of the government's policy on sunsetting and

review of regulations. However, a review clause specific to the implementation of the Directive is inserted by article 6 reflecting the fact that further steps may be required to ensure the adequate transposition of the directive in relation to the period from 15 April 2014 and in respect of the cross compliance requirements.

4. Legislative Context

4.1. This instrument transposes articles 3, 17 to 19 and 21(2), and Annexes I and V, of the Renewable Energy Directive (in so far as they relate to transport). These articles set the renewable energy in transport target and impose mandatory sustainability criteria that biofuels (transport fuels made from biological material) must meet before they may be used to measure compliance with a national renewable energy obligation and before they may be eligible for financial support. A transposition note is annexed.

4.2. Articles 17 to 19 of the Renewable Energy Directive contain a number of provisions enabling the European Commission to adopt measures to supplement and amend the sustainability criteria imposed by the Directive. In some cases the sustainability criteria imposed by the Renewable Energy Directive require Commission measures in order to be effective. In the absence of the Commission measures, it has not been possible to transpose these elements of the Renewable Energy Directive by means of this instrument (as identified in the transposition note).

4.3. The instrument cross refers to Annex V to the Renewable Energy Directive wherever possible, so that the future Commission measures amending that Annex, as envisaged by the Directive, can be automatically taken into account. However, where the Commission adopts measures relating to the sustainability criteria without amending Annex V to the directive, the Department will need to make further amendments to the 2007 Order, to take the Commission measures into account.

4.4. The sustainability criteria imposed by articles 17 to 19 of the Renewable Energy Directive harmonise the sustainability criteria for biofuels and prevent Member States from imposing their own additional sustainability criteria on biofuels for compliance with renewable energy obligations or eligibility for financial support. The Department closely followed those definitions which were set out in the Directive. The Department will produce guidance on the sustainability criteria, making use of work which is being carried out between Member States across Europe.

Scrutiny history

4.5. The proposal which resulted in the Renewable Energy Directive (2009/28/EC) was the subject of EM 5421/08 submitted by the then Department for Business, Enterprise and Regulatory Reform on 14 February 2008. The House of Commons European Scrutiny Committee considered the EM on 27 February 2008. The Committee recommended that the document was politically important and should be debated (15th Report, Session 2007/2008, 29405). The debate took place on 3 June 2008. The House of Lords Select Committee on the European Union referred the EM to Sub-Committee B at the 1312th sift of 20 February 2008. The Chairman wrote to the Minister on 26 February 2008 to note that the Committee was launching an inquiry into matters relating to the proposal and would hold it under scrutiny. The

Committee's report was published on 24 October 2008 and the Government's response was debated and the proposal cleared from scrutiny on 20 November 2008. A Ministerial letter was sent to both Committees on 23 February 2009 to notify them of further developments.

5. Territorial Extent and Application

5.1. This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1. Norman Baker, Parliamentary Under Secretary of State at the Department for Transport, has made the following statement regarding Human Rights:

"In my view the provisions of the Renewable Transport Fuel Obligations (Amendment) Order 2011 are compatible with the Convention rights."

7. Policy background

7.1. The Renewable Energy Directive has set binding targets for Members States to source a proportion of their total energy from renewable sources. In addition, it requires Member States to ensure that 10 per cent of energy used in transport is from renewable sources in 2020 and sets mandatory sustainability criteria for biofuels.

7.2. The UK already has a scheme in place that requires suppliers of fossil fuel for use in road transport to ensure that a certain amount of biofuel is supplied. This scheme is called the Renewable Transport Fuel Obligation. It was established in 2008. Each year the amount of biofuel that must be supplied increases until April 2013 when it reaches 5% (of total road transport fuel supplied) by volume. To date the Renewable Transport Fuel Obligation has met its objective of supporting and increasing the supply of biofuels, and contributing to carbon reduction.

7.3. Supply of biofuel is awarded one Renewable Transport Fuel Certificate per litre of biofuel (or kilogramme of biomethane) supplied. These certificates may be traded between participants in the scheme. At the end of the year, fossil road transport fuel suppliers demonstrate compliance with the Obligation by redeeming the appropriate number of certificates to demonstrate that the required volume of biofuel was supplied. Alternatively, obligated fossil fuel suppliers can pay a buy-out price per litre of obligation; the buy-out price is set in the Renewable Transport Fuel Obligations Order at 30 pence per litre of biofuel.

7.4. Under the current scheme, suppliers must provide information on the greenhouse gas savings, and environmental and social impacts of their fuels.

7.5. The Renewable Energy Directive requires that biofuels used in transport must meet the sustainability criteria set in the Directive in order to be eligible for financial support or to count towards compliance with renewable energy obligations. The mandatory sustainability criteria address issues such as minimum greenhouse gas savings and ensure that biofuels are not produced from raw materials sourced from areas of high biodiversity or high carbon stock.

7.6. On the coming into force of this Order, eligibility for receipt of Renewable Transport Fuel Certificates is therefore to be dependent on demonstrating that the supplied biofuel meets the sustainability criteria set out in the Directive. Suppliers are required to provide the Administrator with an independent audit report to verify that the biofuels supplied meet the sustainability criteria.

7.7. In addition, Article 21 of the Directive requires that Member States count the contribution made by biofuels produced from waste, residues, non-food cellulosic material and ligno-cellulosic material as double the contribution of biofuels from other sources. As such, supply of biofuels derived from these sources will be eligible for two certificates per litre of sustainable biofuel supplied.

7.8. The current Renewable Transport Fuel Obligation places an obligation on entities that supply more than 450,000 litres of fossil road fuel per annum. In practice, this means that entities that only supply biofuel are not required to report on the fuel they supply, unless they wish to claim certificates. In order that the Department obtains supply and sustainability information on all biofuels that are supplied, we are extending the Renewable Transport Fuel Obligation such that all transport fuel suppliers, irrespective of the type of fuel they supply (i.e. whether they supply fossil fuels, biofuels, or both) are required to report on the transport fuel they supply. We are not making any changes to the 450,000 litre threshold, in order to minimise the regulatory burden on small/medium sized businesses.

7.9. We are also expanding the scope of the Renewable Transport Fuel Obligation such that all renewable fuels of biological origin for use in road vehicles are eligible for reward, including the renewable portion of fuels that are partly made from renewable sources. This approach will enable newly developed renewable fuels to automatically count towards the Obligation.

7.10. We have made a number of changes to the current Renewable Transport Fuel Obligation enforcement regime. We have altered the basis on which suppliers must provide information related to the sustainability of the fuels they supply: suppliers are now required to provide information that is “accurate”, rather than “accurate to the best of the supplier’s knowledge and belief”. We believe that this change is appropriate as we move to mandatory sustainability criteria. We have also introduced a new liability for a penalty for suppliers failing to submit a verifier’s opinion on certain additional sustainability information; in line with existing sanctions, this is a civil penalty that is capped at the lesser of 10 per cent of annual turnover or £50,000.

7.11. There is public and media interest in biofuels policy: over 4600 members of the public responded to the consultation, most calling for biofuel supply targets to be scrapped. However, sustainable biofuels have an important role to play in the Government’s efforts to tackle climate change and in security of energy supply. The UK (and indeed all other Member States) must, in law, comply with the requirements of the Renewable Energy Directive; in essence, this means requiring an increase in the amount of biofuel supplied and introducing mandatory sustainability criteria for that biofuel. In the absence of regulation, fuel suppliers are unlikely to voluntarily supply sustainable biofuel which is often more expensive to supply than fossil fuels.

8. Consultation outcome

8.1. A three-month consultation on the draft amending Order ran from March to June 2011. In total, 4679 responses were received from a range of stakeholders.

8.2. The Department for Transport has made a number of changes to the draft amending Order based on consultation responses. The most notable changes to this instrument are that:

- The scope of the Renewable Transport Fuel Obligation will not (at this time) be extended to include fuels that are used in non-road mobile machinery;
- The renewable fraction of a partially renewable fuel that is eligible for certificates will be determined by reference to the total volume of the fuel that originated from renewable sources; and
- The buy-out recycling mechanism will be retained.

8.3. A full analysis of consultation responses and the Government's response to those responses is available on the Department's website: http://www.dft.gov.uk/consultations/dft-2011-05

9. Guidance

9.1. As Administrator of the Renewable Transport Fuel Obligation, the Department for Transport will publish guidance for suppliers. This guidance will include details of how to comply with the Obligation, what evidence is required to demonstrate compliance with the mandatory sustainability criteria, how to calculate the greenhouse gas emissions of supplied biofuel and guidance for third party verifiers who must provide an audit on the data collected to demonstrate compliance with the sustainability criteria.

9.2. There will be a targeted consultation on the guidance and the final guidance will be available on the Department's website.

10. Impact

10.1. Four impact assessments have been produced, in addition to an overarching impact assessment that aggregates the cost and benefits of measures outlined in the individual impact assessments so that the impact of these measures can be considered in their entirety.

10.2. The total cost of compliance with the amended Renewable Transport Fuel Obligation is estimated to be £324 million over the period 2012 to 2030; these costs are in addition to those of complying with the existing Renewable Transport Fuel Obligation. The majority of the costs arise from a temporary increase in biofuel prices, which is expected to result from implementation of the sustainability criteria (a central estimate of £318 million). The remainder of the estimated costs result from the requirement to have compliance with the sustainability criteria independently verified (£6 million). These costs will be incurred by fuel suppliers

obligated under the Renewable Transport Fuel Obligation who are expected to pass them through to fuel consumers.

10.3. Implementation of double certification of waste-derived biofuel is expected to shrink the market for crop-derived biofuel. As a result crop-derived biofuel producers may experience lower profitability. Double certification is also expected to lead to greater demand for waste feedstocks (e.g. waste wood, wood chips, used cooking oil) pushing up prices in these markets. Higher prices for waste feedstocks may result in lower profitability in industries which currently make use of these resources.

10.4. Monetised benefits have been calculated by estimating changes in net greenhouse gas savings from the supply of biofuel. These greenhouse gas savings have been monetised using Department of Energy and Climate Change carbon values and are estimated at £606 million over the period 2012 to 2030.

10.5. Non-monetised benefits include potential innovation benefits from advanced biofuel production technologies which may result from double certification. Increased uptake of waste-derived biofuel may also reduce the pressure placed on food markets by crop-derived biofuel.

10.6. In total, the Department estimates that these changes will result in a net benefit of £282 million over the period 2012 to 2030.

10.7. All Impact Assessments are provided with this Explanatory Memorandum and will be published alongside it on the legislation website of the National Archives (www.legislation.gov.uk).

11. Regulating small business

11.1. The legislation applies to small business.

11.2. To minimise the impact of the requirements on firms employing up to 20 people, the Order exempts from the obligation transport fuel suppliers who supply less than 450,000 litres of road transport fuel in an obligation year.

12. Monitoring and review

12.1. Review of these measures will take place as part of ongoing policy development and stakeholder consultation. In particular, Article 6 of the amending Order places an obligation on the Secretary of State for Transport to keep under review whether further steps must be taken in order to meet the requirements of the Renewable Energy Directive in respect of transport.

12.2. Article 22(1) of the Renewable Energy Directive requires the UK to submit a report to the European Commission on progress in the promotion and use of energy from renewable sources by 31 December 2011, and every two years thereafter (up to 31 December 2021).

13. Contact

13.1. Craig Mills at the Department for Transport, Tel: 020 7944 4895 or email: Craig.Mills@dft.gsi.gov.uk can answer any queries regarding this instrument.

TRANSPOSITION NOTE FOR:

ARTICLES 3, 17 TO 19 AND 21(2), AND ANNEXES I AND V OF DIRECTIVE 2009/28/EC

BY

THE RENEWABLE TRANSPORT FUEL OBLIGATIONS (AMENDMENT) ORDER 2011

1. For the purposes of this note:

   "The 2007 Order" means the Renewable Transport Fuel Obligations Order 2007 (S.I. 2007/3072) as amended by the Finance Act 2008 (c.9), the Renewable Transport Fuel Obligations (Amendment) Order 2009 (S.I. 2009/843) and the Office of the Renewable Fuels Agency (Dissolution and Transfer of Functions) Order 2011 (S.I. 2011/493).

   "The RTFO" means the Renewable Transport Fuel Obligation imposed upon transport fuel suppliers by the 2007 Order (as amended).

   "The directive" means Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion and use of energy from renewable sources and amending and subsequently repealing Directive 2001/77/EC and 2003/30/EC.

   "GHG" means "greenhouse gas".

2. This Order does what is necessary to transpose articles 3, 17 to 19 and 21(2), and Annexes I and V, in so far as they relate to transport, of 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 Directive 2001/77/EC and 2003/30/EC.

Article	Objective	Transposition
Article 3	Article 3(4) requires Member States to ensure that at least 10% of their final energy consumption in transport is derived from renewable sources in 2020. Delivering this obligation will contribute to the meeting of the national overall renewable energy target for 2020, and the indicative trajectory up to 2020, as set out in Annex I to the	This provision is transposed by article 5 (amending article 4 of the 2007 Order) which sets out biofuel supply targets that rise annually until 2013/2014 where the target reaches 5% and remains at that level. In respect of the period thereafter up to 2020, article 6 (inserting a new article 4A into the 2007 Order) places an ongoing duty on the Secretary of State to keep under review what further steps may be necessary to meet the requirements of the directive in respect of transport.

	directive.	
Article 17	Article 17(1) requires that any biofuels counted towards meeting the directive's transport target or any Member State's national renewable energy obligation targets, or that are eligible for financial support, fulfil the requirements of the sustainability criteria ("sustainable biofuels"). The detailed criteria are set out elsewhere in Articles 17 to 19 of the directive. A partial exception is made for biofuels produced from waste and residues, other than agricultural, aquaculture, fisheries and forestry residues, which need only fulfil the sustainability criteria relating to GHG emission savings in order to be recognised as sustainable.	The RTFO is the UK's national renewable energy obligation in respect of transport and the UK's chosen means of transposing the requirements of the directive in this respect. Article 7, inserting article 5(2)(b) into the 2007 Order, transposes the high-level requirement that in order to count towards the RTFO, biofuels must fulfil the applicable sustainability criteria. Article 23 (inserting a new schedule into the 2007 Order) transposes the specific sustainability criteria which different categories of biofuel must meet if they are to count towards discharging either the RTFO or to contribute towards the meeting of national renewable energy targets. Biofuels produced from waste and residues, other than agricultural, aquaculture, fisheries and forestry residues, are exempted from the need to fulfil the land criteria aspect of the sustainability criteria (i.e. they need only meet the applicable GHG emission saving threshold) by paragraph 2(2) of the Schedule.
	Article 17(2) sets minimum greenhouse gas saving thresholds for biofuels.	Article 23, by inserting paragraphs 3 to 6 of the new Schedule into the 2007 Order, transposes the GHG emission saving threshold requirements applicable to biofuels if they are to be eligible meet the sustainability criteria.
	Article 17(3) defines certain categories of land on which raw materials used to produce biofuels may not be cultivated if the resultant biofuels are to be eligible to meet the sustainability criteria. This provision covers various forms of land which have had a high biodiversity value at any point since January 2008, and include forests, nature protection areas (unless the cultivation did not interfere with the nature protection	Article 23, by inserting paragraphs 7 to 9 of the new Schedule into the 2007 Order, transposes the land criteria applicable to biofuels (to the extent that they are currently capable of application) if they are to be eligible to meet the sustainability criteria.

	purposes), and highly biodiverse grasslands. The further pan-European and international work envisaged by the directive which is necessary to allow highly biodiverse grassland and areas for the protection of rare, threatened or endangered ecosystems or species to be identified for these purposes has yet to be completed.	
	Article 17(4) defines further categories of land, those with high carbon stock, on which raw materials used to produce biofuels may not be cultivated if the resultant biofuels are to be eligible to meet the sustainability criteria. These provisions will not apply, however, if the status of the land has not changed between January 2008 and the time when the raw material is obtained.	Article 23, by inserting paragraphs 7 to 9 of the new Schedule into the 2007 Order, transposes the land criteria applicable to biofuels if they are to be eligible to meet the sustainability criteria.
	Article 17(5) requires that raw materials used to produce biofuels are not cultivated on peatland unless evidence is produced that demonstrates that the cultivation did not involve drainage of previously undrained soil.	Article 23, by inserting paragraphs 7 to 9 of the new Schedule into the 2007 Order, transposes the land criteria applicable to biofuels if they are to be eligible to meet the sustainability criteria.
	Article 17(6) requires that raw materials cultivated within the European Community and used for production of biofuels are cultivated in accordance with the requirements and standards set out under the common agricultural policy.	Article 6, inserting a new article 4A into the 2007 Order, transposes this provision by placing a duty on the Secretary of State for Transport to keep under review both the extent to which agricultural raw materials cultivated in the UK and used for the production of biofuel have been obtained in accordance with the cross compliance requirements and whether this measure is sufficient to meet the requirements set out in the directive.
	Article 17(7)	This paragraph imposes obligations on the Commission rather than on Member States.

	Article 17(8) prohibits Member States from refusing to take into account biofuels obtained in compliance with article 17 for the purposes of the directive's transport target, any national renewable energy obligation targets and in determining eligibility for financial support.	Article 7, inserting article 5(2)(b) into the 2007 Order, transposes the requirement that in order to count towards the RTFO, biofuels must fulfil the applicable sustainability criteria. Those criteria, which are aligned with those set out in article 17 of the directive, are in turn transposed by article 23 which inserts a new schedule into the 2007 Order. No further preconditions as to sustainability are imposed in order for biofuel to be eligible to count under the RTFO.
	Article 17(9)	This paragraph imposes obligations on the Commission rather than on Member States.
Article 18	Article 18(1) requires that a mass balance system is used when demonstrating compliance of biofuels with the sustainability criteria set out in article 17.	Article 10, by inserting a new article 13A into the 2007 Order, transposes this provision by both defining, and requiring suppliers to use, a 'mass balance system' for reporting information on the sustainability of biofuel to the RTFO Administrator.
	Article 18(2)	This paragraph imposes obligations on the Commission rather than on Member States.
	Article 18(3) requires Member States to ensure that biofuel suppliers report reliable information related to the sustainability of their biofuels and that those suppliers arrange for an adequate standard of independent audit of the information they report. Article 18(3) also requires biofuel suppliers to report on additional sustainability information related to measures taken to protect soil, water and air, to restore degraded land and to avoid excessive use of water consumption in areas where water is scarce. The Commission established a list of the required information by issuing Decision 2011/13/EU (OJ No L 9, 13.1.2011, p11).	Article 8, by amending article 12 of the 2007 Order, transposes the information reporting requirements by placing an obligation on obligated suppliers, and on other suppliers wishing to apply for certificates under the RTFO, to provide biofuel sustainability information and the additional sustainability information to the Administrator. Article 13, by amending article 16(3) of the 2007 Order, partially transposes the independent audit requirement by requiring suppliers who wish to apply for certificates for the supply of biofuel under the RTFO to provide the RTFO Administrator with a verifier's assurance report in respect of that biofuel. Article 14 inserts new articles 16A and 16B into the 2007 Order. New article 16A sets out the standards and specific requirements that a verifier's assurance procedures and subsequent report must satisfy. It also sets out who it is who may prepare such a report and undertake the assurance procedures. New article 16B

	Suppliers must again arrange for an adequate standard of independent audit of the information they report in this respect.	transposes the audit requirement in respect of the additional sustainability information by obliging all suppliers who apply for certificates under the RTFO in relation to any given obligation period to submit at least one verifier's assurance report in respect of that period confirming the 'additional sustainability information'.
	Article 18(4) allows the Commission to decide that voluntary national or international schemes setting standards for the production of biomass products contain accurate data for the purposes of demonstrating that consignments of biofuel comply with some or all of the sustainability criteria.	See text on article 18(7) below.
	Article 18(5) and (6)	These paragraphs impose obligations on the Commission rather than on Member States.
	Article 18(7) provides that, where a supplier provides proof or data in accordance with a voluntary scheme that has been recognised by the Commission, Member States shall not require suppliers to provide any further evidence in relation to the sustainability information covered by the approved scheme.	Article 8, by amending article 12 of the 2007 Order, transposes the information reporting requirement in respect of additional sustainability information by requiring obligated suppliers, and other suppliers wishing to apply for certificates under the RTFO, to provide that information to the Administrator. Article 14 inserts new article 16B into the 2007 Order which requires all suppliers who apply for certificates under the RTFO in relation to any given obligation period to submit at least one verifier's assurance report in respect of that period confirming the 'additional sustainability information'. That term is defined in article 2 of the 2007 Order, as inserted by article 3, as the information specified in article 1 of Commission Decision 2011/13/EU (OJ No L 9, 13.1.2011, p11). The effect of these provisions is to require suppliers to indicate whether the biofuel to which the report relates has been certified or accepted as fulfilling the requirements of a voluntary scheme that has been recognised by the Commission. Where biofuel feedstocks are shown to be

		covered by a voluntary scheme recognised by the European Commission, the Administrator will only require suppliers to provide further evidence in relation to sustainability information not covered by the approved scheme.
	Article 18(8) and (9)	These paragraphs impose obligations on the Commission rather than on Member States.
Article 19	Article 19(1) and Annex V set out how the greenhouse gas emission savings for biofuels must be calculated in order that suppliers can demonstrate that the biofuel they supply meets the minimum greenhouse gas saving threshold applicable to the fuel in question. The greenhouse gas emission saving levels can be calculated through use of default values (set out in Annex V), through actual calculation (via the methodology specified in Annex V), or by a combination of disaggregated default values and actual values.	Article 7 amends article 5 of the 2007 Order in order that biofuel only counts towards discharging a supplier's renewable transport fuel obligation if it is shown to meet the applicable sustainability criteria. Article 23, by inserting paragraphs 3 to 6 of a new schedule into the 2007 Order, transposes this methodology for calculating the greenhouse gas emissions saving thresholds which different categories of biofuel must meet if they are to count towards discharging the obligation.
	Article 19(2)	This paragraph imposed an obligation, now in the past, on Member States to submit a report to the Commission which does not need to be transposed into UK law.
	Article 19(3) and Annex V require that the default GHG saving values set out in part A of Annex V and the disaggregated default values set out in part D of Annex V are only used for biofuels when the raw materials used to produce those fuels are: (a) cultivated outside the EU, (b) cultivated within the EU but in areas in which the typical greenhouse gas emissions from cultivation can be expected to be equal	Article 23, by inserting paragraphs 5(3) and 6(4) of the new Schedule into the 2007 Order, transposes this requirement.

	to or lower than the disaggregated default values for cultivation set out in part D of Annex V, or (c) wastes or residues other than agricultural, aquaculture and fisheries residues.	
	Article 19(4) to (8)	These paragraphs impose obligations on the Commission rather than on Member States.
Article 21	Article 21(2) requires that biofuels produced from wastes, residues, non-food cellulosic material and ligno-cellulosic material are counted twice towards Member States' national renewable energy obligations and towards the transport target (set out in Article 3(4)).	Article 7 amends article 5 of the 2007 Order and inserts, in particular, a new paragraph 4A which transposes this requirement. The equation that appears in that paragraph is drafted so that fuel attributable to sustainable wastes which meets the sustainability criteria will be counted twice for the purposes of discharging a supplier's obligation as it will qualify as being attributable both to sustainable feedstocks (variable "S") and to sustainable wastes (variable "W").