EXPLANATORY MEMORANDUM TO

THE PROMOTION OF THE USE OF ENERGY FROM RENEWABLE SOURCES (AMENDMENT) REGULATIONS 2013

2013 No. 829

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change 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 The instrument amends regulation 4(3) of the Promotion of the Use of Energy from Renewable Sources Regulations 2011 ("the 2011 Regulations") to correct drafting errors.

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

3.1 In its nineteenth report of the 2010-2012 session, printed on 30 March 2011, the Joint Committee on Statutory Instruments drew the special attention of both Houses to the 2011 Regulations on the ground that they were defectively drafted in one respect. This instrument corrects that defective drafting, and is being issued free of charge.

4. Legislative Context

4.1 The instrument amends regulation 4(3) of the 2011 Regulations, which transposes Article 3(2) of Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources ("the Directive"), as read with Article 4(4) of the Directive. A transposition note for the Directive accompanied the Explanatory Memorandum to the 2011 Regulations.

4.2 The instrument is being made in order to correct drafting errors and adopts some of the terminology used in article 4(4) of the Directive. The instrument does not make any changes to the nature of the requirements imposed by the 2011 Regulations.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 The Directive requires the UK to meet a target of obtaining a 15% share of energy from renewable sources by 2020. In order to ensure progress towards meeting that target Article 3(2) of the Directive sets a series of interim targets for the average renewables share over a series of fixed two year periods which are set out in Part B of Annex 1 to the Directive.

7.2 Article 4(4) of the Directive applies when an interim target is missed, and requires the Member State to set out adequate and proportionate measures to rejoin, within a reasonable timetable, the indicative trajectory in Part B of Annex 1 to the Directive. The reference to the indicative trajectory in Part B of Annex 1 to the Directive is a reference to the series of interim targets.

7.3 Article 4(4) of the Directive was introduced to provide some flexibility in relation to future interim targets, once one target has been missed. In the absence of this, because the targets are all averages, once one had been missed it could be even more challenging to meet future targets, starting from a lower base. The requirement to set out measures to rejoin that indicative trajectory, within a reasonable timetable, means that the two year period over which the average renewables share is to be calculated, is no longer tied to the dates given in Part B of Annex 1 to the Directive.

7.4 An illustrative example of the way in which regulation 4(3) of the 2011 Regulations is intended to operate is set out in a memorandum from the Department printed in Appendix 2 of the Joint Committee on Statutory Instruments' nineteenth report of the 2010-2012 session.

7.5 Although the first interim target covered the period from 1 January 2011 to 31 December 2012, the statistics showing whether the UK met the first interim target are not expected to be available until the end of June 2013.

- Consolidation

7.6 This is the first amending instrument to the 2011 Regulations. There are no plans for a consolidation.

8. Consultation outcome

8.1 There has been no consultation on this instrument.

9. Guidance

9.1 No guidance is planned on this instrument.

10. Impact

10.1 The impact of the instrument on business, charities or voluntary bodies is none.

10.2 The impact of the instrument on the public sector is none.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The instrument does not apply to small business.

12. Monitoring & review

12.1 The next progress report by Member States required under article 22 of the Directive must be submitted to the Commission by 31st December 2013.

13. Contact

Robert Peters at the Department of Energy and Climate Change, telephone: 0300 060 4000 or email: robert.peters@decc.gsi.gov.uk can answer any queries regarding the instrument.