

**Act of [...] amending the Environmental Management Act [Wet milieubeheer] and the Economic Offences Act [Wet op de economische delicten] in connection with an annual obligation to replace the use of hydrogen by operators of industrial installations in industry by the use of renewable fuels of non-biological origin in order to support the achievement of the target in the 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 (OJ 2018, L 328) to promote the use of renewable fuels of non-biological origin in industry (Annual Obligation for Renewable Fuels of Non-Biological Origin in Industry Act)
(Chain ID W GK026235)**

BILL

We, Willem-Alexander, by the grace of God, King of the Netherlands, Prince of Orange-Nassau, etc.

Greetings to all who shall see or hear the following. Be it known:

Whereas We have considered that it is desirable to amend the Environmental Management Act and the Economic Offences Act so as to include an annual obligation for the use of renewable fuels of non-biological origin for undertakings in the industry to support the achievement of the objective in 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 (OJ L 328, 2018);

We therefore, having heard the Advisory Division of the Council of State, and in consultation with the States-General, have agreed and decreed as We hereby agree and decree:

ARTICLE I

The Environmental Management Act [Wet milieubeheer] shall be amended as follows:

A

In Article 2.2(1), ‘Titles 9.7 and 9.8’ is replaced by ‘Titles 9.7, 9.8 and 9.10’.

B

A Title is inserted after Title 9.8 that reads as follows:

Title 9.10. Annual obligation for renewable industrial hydrogen units

Section 9.10.1. General

Article 9.10.1.1 Definitions

For the purposes of this Title and the provisions based thereon, the following definitions apply:

the Minister: The Minister for Climate and Green Growth;

energy content: energy content as referred to in Annex III to the Renewable Energy Directive or, if not included in that Annex, calculated in accordance with rules laid down by ministerial order;

final energy consumption: consumption of energy for the generation of heat, light, electricity or mechanical work;

European Innovation Fund: Delegated Regulation (EU) 2019/856 of the European Commission of 26 February 2019 supplementing Directive 2003/97/EC of the European Parliament and of the Council with regard to the operation of the Innovation Fund (OJ 2019, L 140, p. 6);

operator of an industrial installation: operator of an industrial installation that uses hydrogen intended for final energy consumption and non-energy use in industry and identified as an operator of a greenhouse gas installation referred to in Article 16.5 in the permit referred to in that Article for that industrial installation, or, in the absence of that permit, mentioned as operator in the environmental permit referred to in Article 5.1 of the Environment and Planning Act, for that industrial installation;

renewable fuels of non-biological origin: renewable fuels of non-biological origin, as referred to in Article 2(36) of the Renewable Energy Directive;

renewable sources: renewable non-fossil sources from which renewable energy as referred to in Article 2(1) of the Renewable Energy Directive can be generated;

renewable hydrogen: hydrogen produced from renewable sources, other than biomass, landfill gas, gas from sewage treatment plants and biogas;

renewable hydrogen carrier: renewable fuel of non-biological origin, other than renewable hydrogen;

renewable industrial hydrogen unit: renewable industrial hydrogen unit as referred to in Article 9.10.3.1;

HWI register: register for renewable industrial hydrogen units as referred to in Article 9.10.5.1;

importer of hydrogen: organisational unit which imports hydrogen or converts imported hydrogen carriers into hydrogen and markets this hydrogen for deployment in an industrial process or deploys this hydrogen itself in an industrial process;

party registering renewable fuels of non-biological origin: undertaking using renewable fuels of non-biological origin in accordance with the requirements laid down pursuant to Article 9.10.4.2 in an industrial process and registering the quantity used in the HWI register;

renewable fuels of non-biological origin registration facility: character of an account in the HWI registry that allows the registration of renewable fuels of non-biological origin intended for final energy consumption and non-energy use in accordance with Article 9.10.4.1;

industrial process: the manufacture of products on an industrial scale by the application of chemical, biological or other processes;

industrial installation: a fixed technical unit in which one or more activities and processes take place as referred to in Sections B, C, F and Division 63 of Section J as referred to in Article 2(18a) of the Renewable Energy Directive, as well as other activities and processes directly related and technically related to the first-mentioned activities and processes;

annual obligation facility as regards renewable industrial hydrogen units: characteristic of an account in the register that an operator of an industrial facility has pursuant to Article 9.10.2.2 to comply with its annual obligation regarding renewable industrial hydrogen units;

annual obligation for renewable industrial hydrogen units: the number of renewable industrial hydrogen units for which the operator of an industrial installation is liable pursuant to Article 9.10.2.1;

mass balance of renewable fuels of non-biological origin: an accounting system that faithfully reflects the incoming and outgoing flows and stock of renewable fuels of non-biological origin of an undertaking, whether or not at a storage site over a given period of time, referred to in Article 30 of the Renewable Energy Directive and implemented in accordance with Article 19 of Regulation (EU) 2022/996, as part of a voluntary system used by the party registering renewable fuels of non-biological origin;

non-energy use: non-energy use, as referred to in Article 2(18b) of the Renewable Energy Directive;

undertaking: an undertaking as referred to in Article 5 of the Commercial Register Act 2007 [Handelsregisterwet 2007] that has a legal personality as referred to in Article 3 (with the exception of (f)) of Book 2 of the Civil Code [Burgerlijk Wetboek];

transfer facility for renewable industrial hydrogen units: property of an account in the HWI register that allows the transfer of a renewable industrial hydrogen unit;

hydrogen producer: organisational unit engaged in the production of hydrogen and which sells or trades this hydrogen for use in an industrial process or uses this hydrogen itself in an industrial process;

Directive (EU) 2024/1788: Directive (EU) 2024/1788 of the European Parliament and of the Council of 13 June 2024 on common rules for the internal markets for renewable gas, natural gas and hydrogen, amending Directive (EU) 2023/1791 and repealing Directive 2009/73/EC (OJ L 2024/1788);

Renewable Energy Directive: 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 (OJ 2018, L 328);

SMR installation: integrated steam-methane reforming installation producing hydrogen by a chemical process that converts methane, which is mainly available in natural gas, using steam;

Regulation (EU) 2022/996: Commission Implementing Regulation (EU) 2022/996 of 14 June 2022 on rules to verify sustainability and greenhouse gas emissions saving criteria and low indirect land-use change-risk criteria (OJ 2022, L 168);

Delegated Regulation (EU) 2023/1184: Commission Delegated Regulation (EU) 2023/1184 of 10 February 2023 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing a Union methodology setting out detailed rules for the production of renewable fuels of non-biological origin (OJ 2023, L 157);

Delegated Regulation (EU) 2023/1185: Commission Delegated Regulation (EU) 2023/1185 of 10 February 2023, supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing a minimum threshold for greenhouse gas emissions savings of recycled carbon fuels and by specifying a methodology for assessing greenhouse gas emissions savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels (OJ 2023, L 157);

voluntary system: a voluntary system approved by the European Commission, as referred to in Article 30(4) of the Renewable Energy Directive, for certifying that a renewable fuel of non-biological origin meets the greenhouse gas emissions saving criteria referred to in Article 29a of the Renewable Energy Directive and the requirements laid down in Article 27(6) of the Renewable Energy Directive;

hydrogen intended for final energy consumption and non-energy use: hydrogen intended for final energy consumption and non-energy is intended for use in the industry.

Article 9.10.1.2 Union database

Rules shall be laid down by ministerial order on the import and use of information by parties registering renewable fuels of non-biological origin and other economic operators in the supply chain of renewable fuels of non-biological origin in the Union database referred to in Article 31a of the Renewable Energy Directive.

Article 9.10.1.3 Information obligation

At the request of the Board of the Emissions Authority, the data to be determined by ministerial order shall be provided by producers of hydrogen on the hydrogen produced by them or by importers of hydrogen on the hydrogen or hydrogen carriers imported by them, in so far as said data is necessary for the implementation of this Title.

Article 9.10.1.4 Exceptions to categories of industrial installations

By Order in Council (AMvB), some categories of industrial installations may be designated to which some or all of the provisions included in this Title relating to the operators of industrial installations do not apply.

Article 9.10.1.5 Mutatis mutandis

The provisions in Regulation (EU) 2022/996 and Regulation (EU) 2023/1185 shall apply mutatis mutandis to renewable fuels of non-biological origin intended for final energy consumption and non-energy use in industry.

Article 9.10.1.6 Mutual recognition clause

By renewable hydrogen and renewable hydrogen carriers as referred to in this act are meant renewable hydrogen and renewable hydrogen carriers lawfully produced or marketed in another Member State of the European Union or in a State other than a Member State of the European Union, that is a party to a customs union treaty, or which are lawfully produced in a State, which is a party to a free trade area treaty binding the Netherlands and which meet the requirements providing a level of protection at least equivalent to the level pursued by national requirements.

Section 9.10.2 Annual obligation for renewable industrial hydrogen units

Article 9.10.2.1 The annual obligation for renewable industrial hydrogen units

1. The operator of an industrial installation shall be liable in any calendar year for the number of renewable hydrogen industrial units corresponding to the percentage of the energy content of hydrogen intended for final energy consumption and non-energy use as determined by Order in Council in the calendar year immediately preceding that calendar year.

2. For an operator of an industrial installation that has made use of Article 9.10.2.4(1), (4) or (7), rules shall be laid down by or pursuant to Order in Council (AMvB) on the method of calculating the energy content of the hydrogen intended for final energy consumption and non-energy use for the number of renewable hydrogen units due for industry, as referred to in the first paragraph.

Article 9.10.2.2 Account with annual obligation facility

The operator of an industrial installation has an account with annual obligation facility in the HWI register as regards renewable industrial hydrogen units.

Article 9.10.2.3 Import of hydrogen intended for final energy consumption and non-energy use

1. The operator of an industrial installation shall, before 1 April of any calendar year, register its hydrogen intended for final energy consumption and non-energy use including the hydrogen referred to in Article 9.10.2.4(1), (4) and (7) in kilogrammes for the calendar year immediately preceding that date in accordance with the annual obligation facility in the HWI register for renewable hydrogen units.

2. After the date referred to in section one, the operator of an industrial installation shall notify the board of the Emissions Authority of any changes in the hydrogen intended for final energy consumption and non-energy use imported in its account for any calendar year.

3. By or pursuant to an Order in Council (AMvB), rules shall be laid down for the method of calculating the energy content of the hydrogen intended for final energy consumption and non-energy use, as referred to in section one and the data to be entered in the account shall be determined.

4. The data referred to in the third paragraph and the underlying documents shall be kept by the operator of an industrial installation for at least five years after the end of the calendar year to which the data relate.

Article 9.10.2.4 Excluded categories of hydrogen and imports of excluded categories of hydrogen

1. Before 1 April of any calendar year to which Article 9.10.2.3(1) refers, the operator of an industrial installation may enter the following hydrogen, which it uses in an industrial process in kilogrammes in the calendar year immediately preceding that date and which it has registered in the HWI pursuant to Article 9.10.2.3(1), in its account in accordance with the annual obligation facility as regards renewable industrial hydrogen units:

- a. hydrogen used as an intermediate product for the production of conventional transport fuels and biofuels as referred to in Article 25(2)(a)(i) and (ii) of the Renewable Energy Directive;
- b. hydrogen produced by the decarbonisation of the industrial waste gases and used to replace the specific gases from which it is produced;
- c. hydrogen produced as a by-product or produced from by-products.

2. If the operator of an industrial installation has registered the hydrogen referred to in paragraph 1 in the account in accordance with annual obligation facility as regards renewable industrial hydrogen units in the HWI register, this hydrogen shall not be considered as hydrogen intended for final energy consumption and non-energy use for the purposes of Article 9.10.2.1.

3. By or pursuant to an Order in Council (AMvB), detailed rules shall be laid down on the hydrogen and the method of calculating the energy content and the consistency of the hydrogen referred to in paragraph one.

4. The operator of an industrial installation may, before 1 April of any calendar year as referred to in the first paragraph of Article 9.10.2.3, enter in the HWI register hydrogen produced using an SMR installation and by which ammonia is produced as a result of which that hydrogen is used in an industrial process in the calendar year immediately preceding that date in its account in accordance with the annual obligation facility as regards renewable industrial hydrogen units.

5. If the operator of an industrial installation has entered the hydrogen referred to in paragraph 4 in the account in accordance with the annual obligation facility as regards renewable industrial hydrogen units in the HWI register, this hydrogen shall not, for the purposes of Article 9.10.2.1, be considered as hydrogen intended for final energy consumption and non-energy use as referred to in Article 9.10.2.1 for a percentage to be determined by the Order in Council.

6. By or pursuant to an Order in Council (AMvB), conditions and requirements may be laid down for the purposes of paragraph 5 with regard to the SMR installation and the method of calculating the energy content of the hydrogen referred to in paragraph 4.

7. The operator of an industrial installation producing ammonia may, before 1 April of any calendar year to which Article 9.10.2.3(1) refers, enter the hydrogen produced in an installation for which a decision has been published by the European Commission prior to 20 November 2023 for the award of a grant under the European Innovation Fund and which achieves an average greenhouse gas reduction of 70% on an annual basis in the calendar year immediately preceding the date to which Article 9.10.2.3(1) refers, in the HWI register on its account in accordance with the annual obligation facility as regards renewable industrial hydrogen units, if that hydrogen has been used in the same industrial installation.

8. If the operator of an industrial installation has registered the hydrogen referred to in paragraph 7 in the account in accordance with the annual obligation facility as regards renewable industrial hydrogen units in the HWI registry, for the purposes of Article 9.10.2.1, this hydrogen shall not be considered as hydrogen intended for final energy consumption and non-energy use as referred to in Article 9.10.2.1.

9. By or pursuant to an Order in Council (AMvB), conditions and requirements may be laid down for the application of paragraph 8 for the installation and method of calculation of the energy content and the average greenhouse gas reduction of the hydrogen referred to in paragraph 7.

10. The information to be entered in the accounts shall be determined by ministerial order.

11. The data referred to in paragraph 10 and the underlying documents shall be retained by the operator of an industrial installation for at least five years after the end of the calendar year to which the data relate.

Article 9.10.2.5 Verification of imported hydrogen

1. The operator of an industrial installation shall link in the HWI register, in line with the importation of hydrogen intended for final energy consumption and non-energy use as referred to in Article 9.10.2.3(1) and the hydrogen, referred to Article 9.10.2.4(1), (4) and (7), a declaration by a verifier before 1 June that the requirements laid down in or pursuant to Articles 9.10.2.3 and 9.10.2.4 have been met.

2. The verifier shall not issue a declaration if the requirements referred to in paragraph 1 are not met.

3. Further requirements may be laid down by or pursuant to an Order in Council (AMvB) as to how the verifier's declaration, the verifier and the verification are to be linked.

4. The verifier shall keep all the data and documentation related to the verification for at least five years after the end of the calendar year to which the verification relates.

Article 9.10.2.6 Ex officio determination of imported hydrogen

1. If, in any calendar year, an operator of an industrial installation has not before 1 April of the immediately following calendar year entered its hydrogen intended for final energy consumption and non-energy use as referred to in Article 9.10.2.3(1) in its account in accordance with the annual obligation facility as regards renewable industrial hydrogen units, the board of the Emissions Authority may ex officio determine the hydrogen of said operator intended for final energy consumption and non-energy use.

2. If, in any calendar year, an operator of an industrial installation has not correctly registered its hydrogen intended for final energy consumption and non-energy use as referred to in Article 9.10.2.3(1), or its hydrogen as referred to in Article 9.10.2.4(1), (4) and (7), in its account in

accordance with the annual obligation facility as regards renewable industrial hydrogen units or has not linked a declaration from a verifier as referred to in Article 9.10.2.5(1) before 1 June, the board of the Emissions Authority may ex officio determine that hydrogen intended for final energy consumption and non-energy use or this hydrogen ex officio up to five years after that calendar year.

3. Detailed rules on the application of paragraphs 1 and 2 shall be laid down by an Order in Council (AMvB).

Article 9.10.2.7 Carry-over of the annual obligation for renewable industrial hydrogen units

1. The operator of an industrial installation may, during the period determined by an Order in Council, add all or part of the annual obligation for renewable industrial hydrogen units in any calendar year referred to in Article 9.10.2.1 in the case of an annual obligation for renewable industrial hydrogen units in a calendar year following that calendar year in accordance with rules to be determined by an Order in Council.

2. Rules may be laid down by an Order in Council on the part of the annual obligation for renewable industrial hydrogen units in any calendar year that may be added in whole or in part and, in which calendar year, the annual obligations as regards renewable industrial hydrogen units for industry may be added.

Article 9.10.2.8 Compliance with the annual obligation for renewable industrial hydrogen units

1. On 1 June of any calendar year:

a. the operator of an industrial installation shall have on its account at least the number of renewable hydrogen units of industry corresponding to the annual obligation for renewable industrial hydrogen units applicable to that operator of an industrial installation for the calendar year immediately preceding that date; and

b. the board of the Emissions Authority shall deduct from the account of the operator of an industrial facility the number per type of renewable industrial hydrogen units corresponding to the annual obligation for renewable industrial hydrogen units applicable to that operator of an industrial facility for the calendar year immediately preceding that date.

2. Rules on the debiting of the number per type of renewable hydrogen units of industry referred to in paragraph 1(b) shall be laid down by or pursuant to an Order in Council (AMvB).

3. If the application of Article 9.10.2.6(1) or (2) results in an increase in the annual obligation for renewable industrial hydrogen units for the calendar year concerned, the Board of the Emissions Authority shall, subject to the second paragraph, set off the number per type of renewable hydrogen units of industry corresponding to that increase in the account of the operator of an industrial installation.

4. If the application of Article 9.10.2.6(1) or (2) results in a reduction in the annual obligation for renewable industrial hydrogen units for the calendar year concerned, the board of the Emissions Authority shall, subject to paragraph 2, credit the number per type of renewable industrial hydrogen units corresponding to that reduction to the account of the operator of an industrial installation. The board of the Emissions Authority shall take into account Article 9.10.5.5.

5. If, as a result of the application of paragraph 1 or 3, the number of renewable industrial hydrogen units in the account of the operator of an industrial installation per type of industrial renewable hydrogen units results in a negative balance of industrial renewable hydrogen units, the operator of an industrial installation shall make up the shortfall within 12 calendar months.

Section 9.10.3 Renewable industrial hydrogen units

Article 9.10.3.1 Renewable industrial hydrogen unit

1. The HWI registry has the following types of renewable industrial hydrogen units:

A. a renewable hydrogen industry hydrogen unit;

b. a renewable hydrogen carrier industry hydrogen unit.

2. A renewable industrial hydrogen unit shall represent a contribution to the annual obligation for renewable industrial hydrogen units of one gigajoule of renewable fuel of non-biological origin.

3. A renewable industrial hydrogen unit may be kept only in the HWI register referred to in Article 9.10.5.1.

Article 9.10.3.2 Transferability

1. A renewable hydrogen industry hydrogen unit may be transferred if the transferring party and the recipient party each have an account in their respective names in the HWI register.

2. A renewable hydrogen carrier industry hydrogen unit may be transferred to only the Minister if the transferring party and the Minister each have an account in their respective names in the HWI register.

Article 9.10.3.3 Restrictions on transfer

1. Transfer of one or more renewable industrial hydrogen units may not result in a negative balance of renewable hydrogen industry hydrogen units or renewable hydrogen carrier hydrogen units on the account.

2. Transfer of one or more renewable industrial hydrogen units shall not be allowed in the case of a negative balance of renewable hydrogen industry hydrogen units or renewable hydrogen carrier hydrogen units on the account.

Article 9.10.3.4 Provision of the renewable industrial hydrogen unit

1. For the transfer of a renewable industrial hydrogen unit, the following must occur:
a. the debiting of the renewable industrial hydrogen unit from the account registered in the registry in the name of the party transferring the renewable industrial hydrogen unit; and
b. the crediting to the account registered in the register in the name of the party acquiring the renewable industrial hydrogen unit.

2. Paragraph 1 shall apply mutatis mutandis to any changeover other than a transfer.

3. Any changeover other than a transfer shall take effect vis-à-vis third parties only once the changeover has been registered in the HWI register.

Article 9.10.3.5 Nullity or annulment of the contract

1. The nullity or annulment of the contract giving rise to the transfer, or lack of competence of the transferor, after the provision referred to in Article 9.10.3.4(1) has no effect on the validity of the transfer.

2. Any reservation relating to the transfer is worked out at the time the transfer is made.

Article 9.10.3.6 Derogation from the Civil Code

1. By way of derogation from Article 228 of Book 3 of the Civil Code, no right of pledge may be established on a renewable industrial hydrogen unit.

2. No right of usufruct may be established on a renewable industrial hydrogen unit.

3. A renewable industrial hydrogen unit is not subject to seizure.

Article 9.10.3.7 Order of debiting in the event of a negative balance

If the balance of the number of renewable industrial hydrogen units on an account in the HWI register is negative, the credited renewable industrial hydrogen units per type shall be debited per type in accordance with rules to be laid down by an Order in Council (AMvB).

Section 9.10.4 Registering renewable hydrogen and renewable hydrogen carriers

Article 9.10.4.1 Registering renewable fuels of non-biological origin

1. A party registering renewable fuels of non-biological origin may, until 1 April of any calendar year, register in the HWI register the quantity used the calendar year immediately preceding that date:

a. register renewable hydrogen in gigajoules that has been used in an industrial process in the Netherlands by an operator of an industrial installation and that complies with the provisions of or pursuant to Article 9.10.4.2;

b. register renewable hydrogen carriers in gigajoules that have been used in an industrial process in the Netherlands by an operator of an industrial installation and that comply with the provisions of or pursuant to Article 9.10.4.3.

2. The party registering renewable fuels of non-biological origin shall link an entry up to 1 June to a declaration by a verifier as referred to in Article 9.10.4.9(1).

3. Rules may be laid down by an Order in Council (AMvB) with regard to the party registering renewable fuels of non-biological origin referred to in paragraph 1.

Article 9.10.4.2 Requirements as regards registering renewable hydrogen

The renewable hydrogen to be registered:

- a. complies with the greenhouse gas emission savings criterion referred to in Article 29a of the Renewable Energy Directive and with Articles 4, 7, 10, 14, 17, 18, 19, 20 and 22 of Regulation (EU) 2022/996;
- b. is produced by electricity that meets the requirements set out in the first to third subparagraphs of Article 27(6) of the Renewable Energy Directive;
- c. may be registered in a period and conditions to be set by an Order in Council (AMvB) without proof of sustainability as referred to in Article 2(23) of Regulation (EU) 2022/996 if the operator of an industrial facility does not have any access to the Dutch national hydrogen grid as referred to in Article 2(21) of Directive (EU) 2024/1788;
- d. meets the other requirements laid down by or pursuant to an Order in Council (AMvB).

Article 9.10.4.3 Requirements for registering renewable hydrogen carriers

The renewable hydrogen carrier to be registered:

- a. complies with the greenhouse gas emission savings criterion referred to in Article 29a of the Renewable Energy Directive and with Articles 4, 7, 10, 14, 17, 18, 19, 20 and 22 of Regulation (EU) 2022/996;
- b. is produced by electricity that meets the requirements set out in the first to third subparagraphs of Article 27(6) of the Renewable Energy Directive;
- c. meets the other requirements laid down by or pursuant to an Order in Council (AMvB).

Article 9.10.4.4 Means of meeting the requirements for renewable hydrogen and renewable hydrogen carriers

- 1. A ministerial order may:
 - a. lay down rules on the determination of the amounts registered of renewable hydrogen and renewable hydrogen carriers;
 - b. determine how the party registering renewable fuels of non-biological origin shall demonstrate compliance with Articles 9.10.4.2 and 9.10.4.3;
 - c. determine the data to be entered at the time of registration.
- 2. The data referred to in paragraph 1(c) shall be kept by the registering party for at least five years following the calendar year in which the registration takes place.

Article 9.10.4.5 Renewable industrial hydrogen units to be credited

- 1. The board of the Emissions Authority shall credit one gigajoule of renewable fuels of non-biological origin entered in the accounts for:
 - a. one renewable hydrogen industry hydrogen unit, to the account of the party registering renewable fuels of non-biological origin if the renewable fuel of non-biological origin consists of renewable hydrogen;
 - b. one renewable hydrogen carrier industry fuel unit to the account of the party registering renewable fuels of non-biological origin if the renewable fuel of non-biological origin consists of renewable hydrogen carriers.
- 2. The amount of renewable fuels of non-biological origin shall be rounded down to one gigajoule per type of renewable industrial hydrogen unit.
- 3. Detailed rules on the calculation method for determining the amount of renewable industrial hydrogen units shall be laid down by or pursuant to an Order in Council (AMvB).

Article 9.10.4.6 Disclosure by type of renewable hydrogen units available per industry

- 1. The board of the Emission Authority shall publish an overview of the available number of renewable industrial hydrogen units per category every year, at times to be determined by ministerial order.
- 2. Detailed rules on the publication referred to in paragraph 1 shall be laid down by ministerial order.

Article 9.10.4.7 Moment of crediting of renewable industrial hydrogen units

For renewable fuels of non-biological origin used and registered in the register between 1 January and 1 June of any calendar year, the board of the Emission Authority shall, after 1 June of that calendar year, credit the renewable fuels of non-biological origin to the account of the registering party.

Article 9.10.4.8 Suspension or refusal to credit renewable industrial hydrogen units

1. The board of the Emission Authority may suspend or refuse to credit renewable hydrogen units if it suspects abuse or fraud, or has other reasons to believe that the requirements laid down in or pursuant to this section are not being met.

2. Detailed rules on suspension or refusal referred to in paragraph 1 may be laid down by or pursuant to an Order in Council (AMvB).

Article 9.10.4.9 Declaration by a verifier

1. The declaration of a verifier as referred to in Article 9.10.4.1(2) shall show that, where applicable, the conditions laid down in or pursuant to Articles 9.10.4.1 to 9.10.4.5(1) are fulfilled.

2. The verifier shall not issue a declaration if the requirements referred to in paragraph 1 are not met.

3. The verifier shall keep all data and documentation related to the verification for at least five years after the end of the calendar year to which the verification relates.

4. Further requirements may be imposed on the verifier and the verification by or pursuant to an Order in Council (AMvB).

Article 9.10.4.10 Ex officio determination of registered renewable fuels of non-biological origin

1. If, in the opinion of the board of the Emissions Authority, the requirements laid down in or pursuant to this section for the registration in the HWI register of a quantity of renewable fuels of non-biological origin or the verification referred to in Article 9.10.4.9 have not been met, the board may ex officio determine that quantity and the characteristics of that quantity up to five years after the calendar year of its registration.

2. If it follows from the determination referred to in paragraph 1 that the party entering has received renewable fuels of non-biological origin too many renewable industrial hydrogen units for the renewable fuels of non-biological origin delivered, the number per type of renewable industrial hydrogen units for which the registering party received too many renewable fuels of non-biological origin shall be debited from the account of that party registering renewable fuels of non-biological origin.

3. If it transpires from the determination referred to in paragraph 1 that the party registering renewable fuels of non-biological origin has received too few renewable industrial hydrogen units for the renewable fuels of non-biological origin delivered, the number per type of renewable industrial hydrogen units of which the party registering renewable fuels of non-biological origin has received too few shall be credited to the account of said party registering renewable fuels of non-biological origin. The board of the Emissions Authority shall take into account Article 9.10.5.5.

4. Detailed rules on the application of paragraphs 1, 2 and 3 may be laid down by Order in Council.

5. If, as a result of the application of paragraph 2, the number per type of renewable industrial fuel units in the account of the party registering renewable fuels of non-biological origin leads to a negative balance of renewable industrial fuel units, the party shall make up the shortfall within 12 calendar months.

Section 9.10.5 HWI register

Article 9.10.5.1 The HWI register

1. There is an electronic HWI register.

2. The HWI register shall be managed by the Emissions Authority.

3. The HWI register shall consist of the accounts referred to in Article 9.10.5.3.

Article 9.10.5.2 Rules regarding the HWI register

1. Rules on the operation, organisation, availability and security of the HWI register shall be laid down by ministerial order.
2. The board of the Emissions Authority may lay down conditions for the use of the HWI register.

Article 9.10.5.3 Account and facilities in the HWI register

1. The board of the Emissions Authority shall, at the request in its own name of the operator of an industrial installation, open an account with the annual obligation facility as regards renewable industrial hydrogen units and the transfer facility as regards renewable industrial hydrogen units.
2. At the request in its own name of a party registering renewable fuels of non-biological origin, the board of the Emissions Authority shall open an account with the facility of registering renewable fuels of non-biological origin and a facility for transferring renewable fuels of non-biological origin.
3. The board of the Emissions Authority shall not open more than one account with the associated facilities in the name of an operator of an industrial plant as referred to in the first paragraph or a party registering renewable fuels of non-biological origin as referred to in the second paragraph.
4. Rules on the opening, maintenance and management of the account shall be laid down by ministerial order.

Article 9.10.5.4 Refusal to open an account and fraud and abuse in holding an account

1. The board of the Emissions Authority may, where it has reason to believe that fraud or abuse has occurred or that the requirements laid down in or pursuant to this Title for holding an account in the HWI register or for the use of that account are not met:
 - a. refuse to open an account;
 - b. block an account or a facility of that account;
 - c. close an account.
2. The board of the Emissions Authority may, at the request of the account holder, cancel an account.
3. Detailed rules on the application of paragraph 1 shall be laid down by an Order in Council and rules may be laid down on the application of the paragraph 2.
4. The renewable industrial hydrogen units in a closed account shall automatically lapse.

Article 9.10.5.5 Savings from renewable industrial hydrogen units

1. Part of the number per type of renewable industrial hydrogen units on 1 June of any calendar year on the account of an operator of an industrial installation, after the board of the Emissions Authority has applied Article 9.10.2.8(1)(b) or of a party registering renewable fuels of non-biological origin, shall be saved for the purposes of a subsequent calendar year.
2. Rules shall be laid down by an Order in Council (AMvB) concerning the part referred to in paragraph 1, the order in which and the way in which the type of renewable industrial hydrogen units are saved and the manner in which. Differing rules may be laid down for the operator of an industrial installation and the party registering renewable fuels of non-biological origin concerning the part referred to in paragraph 1.
3. By way of derogation from paragraph 1, rules may be laid down by or pursuant to an Order in Council (AMvB) regarding the part that is saved for any calendar year other than the immediately following calendar year.
4. The renewable industrial hydrogen units which are not saved shall automatically lapse.

Article 9.10.5.6 Indication of the price of the renewable industrial hydrogen unit in the case of a transfer

1. The operator of an industrial installation and the party registering renewable fuels of non-biological origin shall register in the HWI register, for each transfer of renewable hydrogen industry hydrogen units, the average price obtained by it for the renewable hydrogen units of industry hydrogen transferred by it.
2. Detailed rules on the entry and use of the average price obtained as referred to in paragraph 1 shall be laid down by ministerial order.
3. The operator of an industrial installation shall attach a declaration from a verifier to the entry of the average price obtained by it as referred to in paragraph 1.
4. Further requirements may be laid down by or pursuant to an Order in Council (AMvB) as to how the verifier's declaration, the verifier and the verification are to be linked.
5. The verifier shall keep all the data and documentation related to the verification for at least five years after the end of the calendar year to which the verification relates.

Article 9.10.5.7 Disclosure of the price of the renewable industrial hydrogen unit in the case of a transfer

1. The board of the Emissions Authority shall draw up an overview of the average price of a renewable hydrogen industry hydrogen unit at least every calendar year at a time to be determined by ministerial regulation.
2. Detailed rules on the publication referred to in paragraph 1 shall be laid down by ministerial order.

Section 9.10.6 Compliance with the requirements of renewable sources and greenhouse gas emission savings criterion

Article 9.10.6.1 greenhouse gas emission savings

1. The economic operators concerned in the supply chain of renewable fuels of non-biological origin shall determine, control and properly account for:
 - a. the nature and quantity of the energy from renewable sources used, other than biomass, landfill gas, gas from sewage treatment plants and biogas, for the manufacture of the renewable fuel of non-biological origin;
 - b. the quantities of fully renewable fuel of non-biological origin produced and fuel of non-biological origin that is not fully renewable;
 - c. the data demonstrating that the greenhouse gas emission saving of the renewable fuel of non-biological origin is at least 70%; and
 - d. the incoming and outgoing flows and stock of renewable fuels of non-biological origin during a given period of time, including data on the associated suppliers and customers.
2. When demonstrating compliance with paragraph 1(c), Regulation (EU) 2023/1185 shall apply *mutatis mutandis* to the economic operators concerned in the supply chain of renewable fuels of non-biological origin.
3. When demonstrating compliance with paragraph 1(a) and (b), Regulation (EU) 2023/1184 shall apply to the producer of hydrogen.
4. A ministerial order will be adopted setting further rules as regards the first, second and third paragraphs.

Article 9.10.6.2 Certification and mass balance

1. The economic operator concerned in the supply chain of renewable fuels of non-biological origin, as well as the party registering renewable fuels of non-biological origin, shall be certified under a voluntary scheme and shall have a mass balance of renewable fuels of non-biological origin.
2. Detailed rules on the mass balance of renewable fuels of non-biological origin may be laid down by ministerial order.

Article 9.10.6.3 Supervision of the certification requirements of renewable sources and greenhouse gas emission reduction criterion

1. The board of the Emissions authority shall supervise a certification body carrying out independent audits on behalf of the voluntary system in the context of compliance with the requirements of renewable sources and the greenhouse gas emission savings criterion referred to in Article 29a of the Renewable Energy Directive for renewable fuels of non-biological origin.
2. In the event of non-compliance with the requirements of renewable sources (and) the greenhouse gas criterion being established, the board of the Emissions Authority shall immediately inform the voluntary system.

C

In Article 18.2f(2), 'Titles 9.7 and 9.8' is replaced by 'Titles 9.7, 9.8 and 9.10'.

D

After Article 18.6b [the numbering of which in letters shall correspond to the last article of the articles beginning with 18.6], an article shall be inserted, reading:

Article 18.6c

In the event of infringement of the provisions of or pursuant to Articles 9.10.1.2, 9.10.1.3, 9.10.2.2, 9.10.2.3, 9.10.2.5(1), (2) and (3), 9.10.2.8(5), 9.10.4.9(1), 9.10.4.10(5), 9.10.5.6, 9.10.6.1 and 9.10.6.2, the board of the Emissions Authority may impose an order subject to periodic penalty payments.

E

After Article 18.16t [the numbering of which in letters shall correspond to the last article of the Articles beginning with 18.16], an article shall be inserted, reading:

Article 18.6u

1. In the event of infringement of the provisions of or pursuant to Articles 9.10.1.2, 9.10.2.2, 9.10.2.3, 9.10.2.5, 9.10.2.8(1a) and (5), 9.10.4.1 to 9.10.4.4, 9.10.4.9(1), 9.10.4.10(5), 9.10.6.1 and 9.10.6.2, the board of the Emissions Authority may impose an administrative fine on the offender.

2. The administrative fine to be imposed on the basis of the articles referred to in paragraph 1 shall not exceed the amount laid down for the sixth category referred to in Article 23(4) of the Criminal Code or, if it is greater, 10% of the turnover of the company or, if the infringement has been committed by an association of companies, of the combined turnover of the companies forming part of the association in the financial year preceding the decision imposing the administrative fine.

3. Article 18.16e(5) shall apply accordingly.

4. If a party registering renewable fuels of non-biological origin has committed three or more infringements of Articles 9.10.4.1 to 9.10.4.4, 9.10.4.9(1), 9.10.4.10(5), 9.10.6.1 and 9.10.6.2, the board of the Emissions Authority may, on the basis of Article 9.10.4.1, decide that the party registering renewable fuels of non-biological origin may not, for a period to be determined by the board, register any renewable fuels of non-biological origin.

ARTICLE II

The Economic Offences Act shall be amended as follows:

A

In Article 1a(1) of the Economic Offences Act, '9.10.1.2, 9.10.2.2, 9.10.2.3, 9.10.2.5, 9.10.2.8(1a) and (5), 9.10.4.1, 9.10.4.2, 9.10.4.3, 9.10.4.4, 9.10.4.9(1), 9.10.4.10(5), 9.10.6.1, 9.10.6.2,' is added after '9.8.2.5' in the phrase relating to the Environment Management Act.

ARTICLE III

Our Minister for Infrastructure and Green Growth shall, within five years of the entry into force of this Law, send the States General a report on the effectiveness and effects of this act in practice.

ARTICLE IV

TBD: overlap provision¹

¹ To be completed following the submission of the Act amending the Environmental Management Act and the Excise Duty Act in connection with the implementation of Directive (EU) 2023/2413 of the European Parliament and of the Council of 18 October 2023 amending Directive (EU) 2018/2001, Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652 and the Act amending the Environmental Management Act and the Economic Offences Act in connection with increasing the share of gas from renewable sources in the total supplies of gas to customers (Green Gas Blending Obligation Act).

Article V

This act shall enter into force at a time to be determined by Royal Decree.

Article V

This Act shall be cited as: Annual Obligation for Renewable Fuels of Non-Biological Origin in Industry Act.

I hereby order that this shall be published in the Government Gazette and that all ministries, authorities, commissions and officials concerned ensure its proper implementation.

Issued by

The Minister for Climate and Green Growth,