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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 140**

**The Renewables Obligation (Scotland) Order 2009**

**PART 7**

Issue and revocation of SROCs

**Issue of SROCs to generators and suppliers**

**34.**—(1) Subject to paragraphs (2) to (4) and article 35 (issue of SROCs to agents), the Authority is to issue a SROC to the operator of the generating station by which the electricity to which the SROC relates was generated.

(2) Where electricity—

- (a) is required to be generated by a generating station from renewable sources under a NFFO arrangement; or
- (b) in compliance with such an arrangement, is required to be made available to the nominated person,

SROCs are to be issued as set out in paragraphs (3) and (4).

(3) Where by virtue of the NFFO arrangement the nominated person is entitled to the electricity, SROCs are to be issued to electricity suppliers notified to the Authority by the nominated person as being purchasers of the electricity and to each in such numbers as are appropriate to the amount of the electricity which the nominated person notifies the Authority each has purchased (subject to the total number of SROCs available to be issued in respect of the electricity).

(4) Where electricity suppliers are entitled to electricity under a NFFO arrangement, SROCs are to be issued to those electricity suppliers, each in proportion to its entitlement.

**Issue of SROCs to agents**

**35.**—(1) This article applies to a SROC which certifies the matters within section 32B(5), (6) or (8) of the Act (a “relevant SROC”).

(2) Where the generating stations to which a relevant SROC relates are operated by two or more persons (“the operators”), that SROC must be issued to an agent appointed for the purpose by the operators.

(3) The Authority must be notified in writing of the agent's appointment, name and address.

(4) That notification may be provided to the Authority by the operators (or any of them) or the agent.

(5) The Authority must be notified in writing if the agent's appointment is terminated.

(6) That notification may be provided to the Authority by the operators (or any of them) or the agent.

(7) Where notice is given under paragraph (5) and received by the Authority, the termination will take effect (subject to paragraph (8)) at the end of the obligation period during which it is given,

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and until the expiration of that obligation period the Authority must continue to issue any relevant SROCs to the agent.

(8) Notwithstanding paragraph (7), after the expiration of that obligation period the Authority must continue to issue relevant SROCs to the agent where those SROCs relate to electricity generated during that obligation period.

(9) Paragraphs (7) and (8) do not apply in any case where the Authority is satisfied, by evidence produced to it, that owing to exceptional circumstances the termination should have immediate effect.

(10) Where an agent's appointment has been terminated the agent is required to return to the operators any relevant information relating to the generation of electricity by their stations.

(11) Where any provision of this Order requires or permits something to be done by, to or in respect of an agent appointed under this article and the agent's appointment is terminated before that thing is done, references to that agent (however framed) are to be construed—

- (a) where a successor to the agent has been appointed under this article, as references to that successor; and
- (b) in any other case, as references to the operators of the generating stations for whom the agent acted before the appointment was terminated.

### **General criteria for the issue of SROCs**

**36.**—(1) Subject to article 37, once during each obligation period the person to whom a SROC is to be issued must confirm to the Authority in writing, whether before or after the generation of the electricity to which the SROC relates, that that electricity, to the best of the person's knowledge and belief, has been or (as the case may be) will be—

- (a) in the case of a SROC certifying the matters within section 32B(3) or (5) of the Act, supplied by a designated electricity supplier to customers in Great Britain;
- (b) in the case of a SROC certifying the matters within section 32B(4) or (6) of the Act, supplied by a Northern Ireland supplier to customers in Northern Ireland; and
- (c) in the case of a SROC certifying the matters within section 32B(7) or (8) of the Act, used in a permitted way.

(2) The electricity in respect of which a SROC is to be issued—

- (a) must be generated during a month in which the generating station generating it is accredited under this Order or an Order made under Article 52 of the Northern Ireland Energy Order and any conditions to which the accreditation is subject are met;
- (b) subject to paragraph (3), must be measured using a meter which, if used for ascertaining the quantity of electricity supplied by an authorised supplier to a customer, would be approved for the purposes of paragraph 2(1)(a) of Schedule 7 to the Act; and
- (c) must not include electricity in respect of which a SROC—
  - (i) has already been issued under this Order and has not been revoked; or
  - (ii) has already been issued under an Order made under sections 32 to 32M of the Act by the Secretary of State (whether or not it has been revoked).

(3) Paragraph (2)(b) does not apply in relation to electricity generated by a generating station the operator of which has agreed with the Authority that estimates may be provided instead of measurements using a meter.

(4) Any information which—

- (a) is relevant to the question whether a SROC is to be issued; and

- (b) is requested by or required to be provided to the Authority under article 53 (provision of information to the Authority),

must be provided in the form and time requested and must be (in the Authority's opinion) accurate and reliable.

(5) Where such information relates to the fuel used in the generation of that electricity and the fuel did not originate at the generating station, in determining whether that information is accurate and reliable the Authority must have regard to—

- (a) the distance over which the fuel was transported; and  
(b) the conditions under which the fuel was prepared and transported.

[<sup>F1</sup>(6) The operator of a generating station which generates electricity by burning fuel in a combustion unit may notify the Authority in writing that, until such time as the notification is withdrawn, the energy content of any biomass burned in that combustion unit will be less than 50 per cent of the energy content of all the energy sources burned in that combustion unit.

(7) A notification under paragraph (6) constitutes sufficient evidence of the fact that the energy content of the biomass burned in the combustion unit referred to in the notification is less than 50 per cent of the energy content of all the energy sources burned in that combustion unit.

(8) A notification under paragraph (6) may be withdrawn by a notice—

- (a) in writing from the operator of the generating station to the Authority; and  
(b) which specifies a date from which the withdrawal of the notification is to take effect.]

#### Textual Amendments

**F1** Art. 36(6)-(8) inserted (1.4.2013) by [The Renewables Obligation \(Scotland\) Amendment Order 2013](#) (S.S.I. 2013/116), arts. 1(1), **21** (with art. 29)

#### Criteria applicable to SROCs where article 36(1)(a) or (b) cannot be complied with

**37.**—(1) Where a SROC certifying the matters within section 32B(3) or (5) of the Act is to be issued and article 36(1)(a) cannot be complied with because the electricity in respect of which the SROC is to be issued cannot be shown to have been supplied to customers in Great Britain, the person to whom the SROC is to be issued must confirm to the Authority in writing—

- (a) that the electricity in question is to be regarded as having been supplied to customers in Great Britain by virtue of article 15(2) or (3); and  
(b) where it is located otherwise than on land, that the generating station to which the SROC relates is connected directly to a transmission or distribution system (or the part of such a system) that is located in Northern Ireland (and to no other system or part thereof).

(2) Where a SROC certifying the matters within section 32B(4) or (6) of the Act is to be issued and article 36(1)(b) cannot be complied with because the electricity in respect of which the SROC is to be issued cannot be shown to have been supplied to customers in Northern Ireland, the person to whom the SROC is to be issued must confirm to the Authority in writing that the electricity in question is to be regarded as having been supplied to customers in Northern Ireland by virtue of article 15(4).

(3) In this article “Northern Ireland” has the same meaning as in Article 54(1) of the Northern Ireland Energy Order.

**Further criterion applicable to SROCs certifying matters within section 32B(3) and (5) of the Act where electricity generated otherwise than on land**

**38.** Where a SROC certifying the matters within section 32B(3) or (5) of the Act is to be issued in relation to a generating station which is not located on land and the confirmation required by article 36(1)(a) has been or is to be given in relation to the electricity generated or to be generated by that station, the person to whom the SROC is to be issued must confirm to the Authority in writing that the generating station to which the SROC relates is connected directly to a transmission or distribution system in Great Britain and the electricity in respect of which it is to be issued cannot be or have been conveyed to Great Britain through an electricity interconnector.

**Further criteria applicable to SROCs certifying matters within section 32B(3) to (6) of the Act**

**39.**—(1) Once during each obligation period the person to whom a SROC certifying the matters within section 32B(3), (4), (5) or (6) is to be issued must confirm to the Authority in writing, whether before or after the generation of the electricity to which the SROC relates—

- (a) that they are not a person who has been a party to an applicable NFFO arrangement (within the meaning of article 20);
- (b) that they are not (and to the best of their knowledge and belief will not during the obligation period in which the confirmation is given become) a person who is a party to an applicable NFFO arrangement (within the meaning of article 21); and
- (c) that they are not (and to the best of their knowledge and belief will not during the obligation period in which the confirmation is given become) a person who is a connected person or a linked person in relation to any such party.

(2) Paragraph (1) does not apply where the person to whom the SROC is to be issued is an electricity supplier.

**Further criteria applicable to SROCs certifying matters within section 32B(5), (6) and (8) of the Act**

**40.**—(1) Once during each obligation period the person to whom a SROC certifying the matters within section 32B(5), (6) or (8) is to be issued must confirm to the Authority in writing, whether before or after the generation of the electricity to which the SROC relates, the matters set out in paragraph (2).

(2) The matters set out in this paragraph are—

- (a) that each of the generating stations in relation to which the SROC is to be issued—
  - (i) is a microgenerator; and
  - (ii) is accredited as a generating station capable of generating electricity in the same way from the same renewable source, and
- (b) where the generating stations in relation to which the SROC is to be issued are operated by two or more persons (“the operators”), that the operators have each—
  - (i) appointed the person providing the confirmation to act as agent to receive the SROC on their behalf in accordance with article 35 (issue of SROCs to agents); and
  - (ii) agreed that their entitlement to SROCs should be determined in the same way (either on a monthly basis or on an annual basis, depending on whether or not a notice has been given to the Authority under article 60(2) (modifications of this Order in relation to microgenerators in certain circumstances)).

## Refusing to issue and revoking SROCs

41.—(1) The Authority may refuse to issue a SROC—

- (a) where any criterion in articles 36 to 40 which relates to that SROC is not (in its opinion) met;
- (b) where any information referred to in article 36(4) or any confirmation provided to it under this Part is not (in its opinion) accurate and reliable.

(2) Where, in relation to any electricity generated by a generating station in a month, the Authority is satisfied that—

- (a) any information referred to in article 36(4) is false;
- (b) any confirmation provided to it under this Part is false; or
- (c) a SROC was issued on the basis of any fraudulent behaviour, statement or undertaking on the part of—
  - (i) the operator of that generating station;
  - (ii) a connected person; or
  - (iii) where SROCs are issued to an agent by virtue of article 35, that agent,

the Authority [<sup>F2</sup>may] revoke all SROCs issued in respect of that electricity in that month.

[<sup>F3</sup>(3) The Authority must revoke any SROC which it has issued where the SROC certifies the matters within section 32B(4) or (6) of the Act and the Northern Ireland authority has notified the Authority that it is not satisfied that the electricity in respect of which the SROC was issued has been supplied to customers in Northern Ireland.]

(4) Where the Authority—

- (a) is no longer satisfied that a SROC [<sup>F4</sup>is accurate or] should have been issued;
- (b) has reasonable doubts as to the accuracy or reliability of the information upon which it relied prior to the issue of a SROC; or
- (c) has been unable, due to a failure or refusal by any person (whether inside or outside Scotland) to provide it with any information reasonably requested by it, to check the accuracy of either a SROC or any information which it relied upon prior to the issue of a SROC,

it may revoke the SROC (or another SROC which is identical in all material respects and which has been issued to the same person).

[<sup>F5</sup>(5) In determining whether to revoke a SROC under paragraph (3) or (4), the Authority may disregard any changes to the amounts for RO input electricity (within the meaning of article 23A), RO output electricity (within the meaning of article 23A), total input electricity and total output electricity which were used by it to determine a generating station's RO eligible renewable output in a month if satisfied that, in all the circumstances, it is reasonable for it to do so.]

(6) Where the Authority revokes a SROC it must delete that SROC from the Register and as soon as reasonably practicable afterwards give notice in writing of such revocation to the person who was the registered holder of the SROC at the time of its revocation.

[<sup>F6</sup>(7) This article is subject to article 41A(2) to (4).]

### Textual Amendments

- F2** Word in art. 41(2) substituted (1.4.2010) by [The Renewables Obligation \(Scotland\) Amendment Order 2010 \(S.S.I. 2010/147\)](#), arts. 1, **10(a)** (with art. 17)

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- F3** Art. 41(3) substituted (1.4.2010) by [The Renewables Obligation \(Scotland\) Amendment Order 2010 \(S.S.I. 2010/147\)](#), arts. 1, **10(b)** (with art. 17)
- F4** Words in art. 41(4)(a) inserted (1.4.2010) by [The Renewables Obligation \(Scotland\) Amendment Order 2010 \(S.S.I. 2010/147\)](#), arts. 1, **10(c)** (with art. 17)
- F5** Art. 41(5) substituted (1.4.2014) by [The Renewables Obligation \(Scotland\) Amendment Order 2014 \(S.S.I. 2014/94\)](#), arts. 1(1), **14** (with art. 27)
- F6** Art. 41(7) inserted (1.4.2010) by [The Renewables Obligation \(Scotland\) Amendment Order 2010 \(S.S.I. 2010/147\)](#), arts. 1, **10(d)** (with art. 17)

### [<sup>F7</sup>Where SROCs cannot be revoked

**41A.**—(1) A SROC cannot be revoked where it has been produced to the Authority under article 5 (the renewables obligation).

(2) A SROC cannot be revoked by the Authority under article 41(2) or (4) more than six years after it has been issued.

(3) Where the Authority would have revoked a SROC (“the original SROC”) under article 41(2) or (4) but for the fact that it has already been produced to it under article 5, the Authority must, subject to paragraph (4), refuse to issue a further SROC (“the further SROC”) in respect of electricity generated by the generating station in relation to which the original SROC was issued.

(4) The Authority shall refuse to issue the further SROC under paragraph (3) only if the original SROC was—

- (a) issued no more than six years previously; and
- (b) not issued to an electricity supplier under article 34(2) to (4).]

### Textual Amendments

- F7** Art. 41A inserted (1.4.2010) by [The Renewables Obligation \(Scotland\) Amendment Order 2010 \(S.S.I. 2010/147\)](#), arts. 1, **11** (with art. 17)

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