
EXPLANATORY NOTE

(This note is not part of the Order)

This Order consolidates and re-enacts the Renewables Obligation Order 2009 (S.I. 2009/785) (the “2009 Order”) as amended and makes new provision. It imposes an obligation (“the renewables obligation”), on all electricity suppliers licensed under the Electricity Act 1989 (“the Act”) which supply electricity in England and Wales, to produce a certain number of renewables obligation certificates in respect of each megawatt hour of electricity that each supplies to customers in England and Wales during a specified period known as an “obligation period” (article 7). It also “bands” the different technologies that are used to generate electricity from renewable sources, meaning that the number of certificates that will be issued in respect of that electricity depends on the way in which that electricity has been generated. The renewables obligation is administered by the Gas and Electricity Markets Authority (“the Authority”) who issues renewable obligation certificates to renewable electricity generators based on their renewable output. These certificates are sold to electricity suppliers with or without the associated renewable electricity.

Alternatively, instead of producing the required number of certificates in respect of all or part of their renewables obligation, a supplier is permitted to make a payment to the Authority (articles 67 and 68).

This Order contains provisions (in articles 2, 3, 4, 5, 61(1), 62, 78, 80, 83 and 86(2), Schedule 1 and paragraphs 1, 2, 5(1),(4),(5) and (6) of Schedule 3) which implement, in relation to the renewable obligation, Articles 17 to 19 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 Renewables Directive”) and Commission Decision 2011/13/EU (the “Commission Decision”) on certain types of information about biofuels and bioliquids to be submitted by economic operators to Member States.

Part 1 sets out the interpretation provisions for the Order, defines “biomass”, “waste” and a “grace period generating station” and sets out how to determine the proportion of a fossil derived bioliquid which is to be treated as being composed of fossil fuel. In particular, article 3 defines “biomass” and also sets out the circumstances in which a fuel (not being biomass), may be treated as biomass by virtue of being used in a generating station with biomass. It also provides how the proportion of biomass which is composed of fossil fuel is to be determined.

Article 5 specifies, as provided for in section 32M of the Act, that renewable waste (defined as waste of which not more than 90% is, or is derived from, fossil fuel) constitutes a renewable source. It also sets out how the proportion of waste which is, or is derived from, fossil fuel is to be determined and includes specific provisions relating to municipal waste.

Article 6 defines a “grace period generating station” as a station that was registered as a grace period generating station under article 58ZA of the 2009 Order where that registration has not been withdrawn.

Part 2 sets out how the renewables obligation is calculated and what a supplier needs to do to meet their obligation. In particular, articles 8 to 11 set out the calculations that the Secretary of State must undertake before the start of each obligation period to determine the total UK renewables obligation for that period.

Article 12 sets out the circumstances where each calculation is to be used to determine the total obligation for electricity suppliers in England and Wales.

Article 13 determines the number of renewables obligation certificates to be produced by individual electricity suppliers to discharge their renewables obligation. Paragraph (3) of this article requires the Secretary of State to publish, by the 1st of October preceding each annual obligation period, the number of renewables obligation certificates that a supplier will be required

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to produce in respect of each megawatt hour of electricity that it supplies to customers in England and Wales.

Article 14 provides for an electricity supplier to discharge its renewables obligation by the production to the Authority of a Northern Ireland certificate (a renewables obligation certificate issued by the Northern Ireland authority). This article also sets out the maximum proportion of their obligation which licensed suppliers are able to meet by presenting renewables obligation certificates issued in respect of electricity generated by bioliquid.

In Part 3, article 16 sets out those conditions that need to be met for electricity to be regarded as having been supplied to customers in Great Britain or Northern Ireland for the purposes of section 32B(3) to (6) of the Act. Article 17 sets out when electricity is to be regarded as being used in a permitted way for the purposes of section 32B(7) and (8) of the Act.

In Part 4, articles 18 to 25 provide for the issue of renewables obligation certificates by the Authority (“ROCs”). Article 24 provides for the revocation of ROCs in certain circumstances. Article 25 requires the Authority, in certain circumstances, to refuse to issue further ROCs to a generator.

In Part 5, articles 26 and 27 define “RO input electricity” and “RO output electricity”. Article 28 sets out how the number of ROCs relating to a generating station's RO eligible renewable output is to be calculated and makes new provision for postponing the issue of ROCs in respect of electricity generated using biomass in certain circumstances. Article 29 sets out how the RO eligible renewable output of a generating station is to be calculated. Article 30 makes specific modifications for qualifying combined heat and power generating stations.

In Part 6, article 31 sets out how the RO eligible renewable output of a generating station is to be apportioned when electricity is generated by two or more types of generating capacity (e.g. pre-2013 capacity, 2013/14 capacity, 2014/15 capacity). Article 32 sets out how the RO eligible renewable output of a generating station is to be apportioned when electricity is generated in two or more ways (e.g. anaerobic digestion, advanced gasification/pyrolysis, co-firing of regular bioliquid) including how to apportion between different non-fuelled ways of generating.

Articles 33 to 40 are the “banding provisions”, which govern the amount of electricity in respect of which each ROC is to be issued. Article 33 contains the general rule, which is that the amount of electricity in respect of which a ROC is to be issued is determined by the relevant capacity with which it was generated as well as the way in which the electricity was generated, in accordance with the relevant Part of Schedule 5. There are special provisions governing ROCs issued to microgenerators (article 34), qualifying combined heat and power generating stations (article 35), low-range co-firing of relevant energy crops (article 36), generating stations which were accredited as at 11th July 2006 (article 37), generating stations which were accredited or held preliminary accreditation as at 31st March 2009 (article 38), offshore wind turbines installed between 2006 and 2010 (article 39), and wave and tidal stream generating stations (article 40). Article 41 sets out conditions which must be satisfied before those banding provisions apply to certain generating stations in respect of which a statutory grant has been awarded. Article 42 enables the Secretary of State to review the banding provisions at four yearly intervals, with a view to their possible amendment under section 32D of the Act, with the first review commencing in October 2018. A review may also occur at any other time if any of the circumstances set out in article 42(2) arise.

In Part 7, articles 43 to 65 set out circumstances in which ROCs are not to be issued. In particular, article 48 widens the cases and circumstances in which ROCs must not be issued, to include circumstances where a capacity agreement (an instrument which confers rights and imposes obligations on those awarded an agreement) has been issued in respect of a combustion unit. Article 48 also sets out the circumstances in which a combustion unit can withdraw from the capacity market and retain its eligibility for ROCs in respect of electricity generated only from biomass. Article 50 sets out that if the station or unit is subject to an investment contract (a contract with an electricity generator entered into by the Secretary of State), and that investment contract is terminated for a permitted termination event, the station or unit is able to regain its eligibility for ROCs. Article 63 sets out new mandatory sustainability requirements for biomass,

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stipulating that ROCs are not to be issued in respect of electricity generated from biomass by stations of 1 megawatt or above unless the biomass meets the “greenhouse gas criteria” and “land criteria” specified in Schedules 2 and 3.

Where suppliers discharge their renewables obligation (in whole or in part) by making payments to the Authority, the payments are held in the “buyout” and “late payment” funds. Part 8 sets out how the buyout and late payment funds are to be handled. Articles 69 and 70 require the Authority to make payments from those funds into the consolidated fund and to the Northern Ireland Authority to pay for the costs of administering the renewables obligation. Once these payments have been made, article 71 requires the remainder of the money in the funds to be paid to those UK suppliers who have discharged their renewables obligation (in whole or in part) by presenting renewables obligation certificates. An exception to this applies where £50,000 or less is all that is held in the late payment fund, in which case that amount is to be retained by the Authority and paid out in the following obligation period (article 70).

Part 8 also contains “mutualisation” provisions (articles 72 to 77). These provisions deal with a situation where the amount held in the buyout and late payment funds is less than the amount that should be held in those funds. Such a situation would only occur where a licensed supplier failed to discharge its renewables obligation by presenting certificates and/or making payments as required by the Order. Where the mutualisation provisions apply, suppliers are required to make a payment to the Authority in respect of the mutualisation sum. Articles 75 and 76 provide for this payment to be re-calculated in certain circumstances.

Part 9 makes provision concerning information which is to be provided to the Authority and the Secretary of State. In particular, article 82 sets out the information to be provided to the Authority where electricity is generated from biomass. It imposes a new requirement to report on the proportion of the biomass used that was hardwood and softwood and on the proportion of the biomass that is likely to have come from a protected or threatened species of wood, and requires the operator to report on the specification that they used to determine whether any of the biomass was derived from a sawlog. However it does not require reporting of the species of wood, except in those cases where the wood was likely to have come from a protected or threatened species. Article 83 requires operators of generating stations claiming ROCs for the generation of electricity from bioliquid to provide a bioliquid sustainability audit report and makes related provision. Article 84 requires a sustainability audit report to be provided to the Authority in respect of the information submitted by the operator of a generating station in accordance with article 82(3)(c) of this Order (in the case of biomass which is waste), or for the purpose of demonstrating that the biomass meets the greenhouse gas criteria or the land criteria (in the case of other biomass). There are exceptions for certain types of biomass and the requirements do not apply in the case of generating stations with a total installed capacity of less than 1 megawatt.

Part 10 sets out the information which is to be exchanged with the Northern Ireland Authority (article 87). It also sets out functions to be discharged by the Authority, in addition to those it is required to discharge in order to administer the renewables obligation (articles 85 and 86). Articles 88 to 90 provide for the preliminary accreditation and accreditation of generating stations. In order to be eligible to claim ROCs in respect of electricity generated from eligible renewable sources, a generating station must have obtained accreditation from the Authority. Part 10 also sets out the requirements for registering offshore wind turbines (article 91) and additional capacity (article 92).

Article 93 requires the Authority to establish and maintain a register of ROCs. Schedule 4 sets out the information that must be included in the register and makes related provision. Article 94 of Part 11 modifies the provisions of specific articles in this Order to enable a microgenerator to be able to claim ROCs on an annual rather than a monthly basis.

Article 95 revokes the 2009 Order, and its subsequent amending orders, the Renewables Obligation (Amendment) Order 2010 (S.I. 2010/829), the Renewables Obligation (Amendment) Order 2010 (S.I. 2010/1107), the Renewables Obligation (Amendment) Order 2011 (S.I. 2011/984), the Renewables Obligation (Amendment) Order 2013 (S.I. 2013/768) and the

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Renewables Obligation (Amendment) Order 2014 (S.I. 2014/893), subject to the saving provisions contained in article 95(2).

Article 96 makes transitional provision. Article 97 makes consequential amendments to the Renewables Obligation Closure Order 2014 (S.I. 2014/2388) as amended by the Renewables Obligation Closure (Amendment) Order 2015 (S.I. 2015/920).

Copies of British Standards referred to in this Order can be obtained from any of the sales outlets operated by the British Standards Institute (BSI), or by post from the BSI at Milton Keynes.

Copies of ISAE 3000 can be obtained from the International Federation of Accountants.

This Order has been notified under Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations.

The 2009 Order revoked and re-enacted the Renewables Obligation Order 2006 (S.I. 2006/1004) (“the 2006 Order”) as amended by the Renewables Obligation Order 2007 (Amendment) Order 2007 (S.I. 2007/1078). The 2009 Order was modified by the Renewables Obligation (Amendment) Order 2010 (S.I. 2010/1107), the Renewables Obligation (Amendment) Order 2011, the Renewables Obligation (Amendment) Order 2013 and the Renewables Obligation (Amendment) Order 2014. The 2009 Order implemented, in relation to the renewables obligation, Articles 17 to 19 of the Renewables Directive and the Commission Decision.

The European Commission has adopted guidelines (OJ No L 151, 17.6.2010, p19) to serve as the basis for the calculation of land carbon stocks as required by paragraph 10 of Part C of Annex 5 to the Renewables Directive. It has also adopted a Regulation (EU 1307/2014) establishing the criteria and geographic ranges for the determination of highly biodiverse grassland as required by Article 3(c) of the Renewables Directive.

A transposition note is annexed to the explanatory memorandum which is available alongside this Order on www.legislation.gov.uk. Impact assessments of the effect this Order will have on business and the voluntary sector are available alongside the Order on that website.

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Changes and effects yet to be applied to :

- art. 42(3) words omitted by [S.I. 2024/706 reg. 31\(b\)](#)
- art. 42(3) words substituted by [S.I. 2024/706 reg. 31\(a\)](#)