

Draft Order laid before the Assembly under Article 66(2) of the Energy (Northern Ireland) Order 2003 for approval by resolution of the Assembly

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2010 No.

ELECTRICITY

**The Renewables Obligation (Amendment)
Order (Northern Ireland) 2010**

Made - - - -

Coming into operation

1st April 2010

The Department of Enterprise, Trade and Investment (“the Department”) makes the following Order in exercise of the powers conferred upon it by Articles 52 to 55F and 66(3) of the Energy (Northern Ireland) Order 2003(1).

The Department has consulted with the Northern Ireland Authority for Utility Regulation, the General Consumer Council for Northern Ireland, electricity suppliers to whom this order applies, persons generating electricity from renewable sources in Northern Ireland and such other persons as it considers appropriate.

Citation and commencement

1. This Order may be cited as the Renewables Obligation (Amendment) Order (Northern Ireland) 2010 and shall come into operation on 1st April 2010.

Amendments

2. The Renewables Obligation Order (Northern Ireland) 2009(2) (“the 2009 Order”) shall be amended in accordance with Articles 3 to 17 below.

The Renewables Obligation

3. In Article 5(3) (The renewables obligation) for “calculations A, B and C” substitute “calculations A and B”.

Calculation B

4. In Article 9 (calculation B) substitute—

(1) [S.I. 2003/419 \(N.I. 6\)](#) Articles 52 to 55F were substituted for Articles 52 to 55 by [S.R. 2009 No. 35](#).
(2) [S.R. 2009 No. 154](#)

“(1) Calculation B is the number of renewables obligation certificates likely to be issued in respect of renewable electricity for a particular obligation period, as estimated by the Secretary of State under Article 9(2) of the Renewables Obligation Order 2009, increased by—

- (a) in relation to the obligation period ending on 31st March 2011, 8 per cent; and
- (b) in relation to any other obligation period, 10 per cent.”.

Calculation C

- 5. Omit Article 10 (calculation C).

Determining the number of renewables obligation certificates to be produced in an obligation period

6.—(1) Article 11 (determining the number of renewables obligation certificates to be produced in an obligation period) is amended as follows.

- (2) In paragraph (1) for “calculations A, B and C” substitute “calculations A and B”.
- (3) In paragraph (2), after the words “calculation A is” insert “equal to or”.
- (4) In paragraph (3) at the beginning omit “Subject to paragraph (4),”.
- (5) Omit paragraph (4).
- (6) Omit paragraph (6).

Determining the number of renewables obligation certificates to be produced by a designated electricity supplier in order to discharge his renewables obligation

7. In Article 12 (determining the number of renewables obligation certificates to be produced by a designated electricity supplier in order to discharge his renewables obligation) omit paragraph (3).

Cases and circumstances when a NIROC must not be issued

- 8. After Article 18 (generating stations first commissioned before 1st January 1990) insert—

“Generating stations accredited for longer than 20 years

18A.—(1) Subject to paragraphs (2) and (3), NIROCs are not to be issued in respect of any electricity generated—

- (a) by an existing generating station, after 31st March 2027;
- (b) by a new generating station, on or after the 20th anniversary of the date on which it was accredited or 31st March 2033 (whichever is the earlier).

(2) Where, at the time it generates electricity, a generating station’s total installed capacity is greater than its original capacity, paragraph (1) applies only in relation to NIROCs which are to be issued in respect of electricity generated using the station’s original capacity.

(3) In relation to the remainder of the electricity generated by the generating station, NIROCs are not to be issued in respect of any electricity generated on or after the 20th anniversary of the date on which, in the Authority’s view, the additional capacity first formed part of the station or 31st March 2033 (whichever is the earlier).

(4) Where electricity generated by a generating station using additional capacity added at a particular time (“relevant additional capacity”) is not measured separately from—

- (a) electricity generated by it using additional capacity (if any) which was added to it at a different time, or
- (b) electricity generated by it using its original capacity,

the electricity generated by it which is to be treated (for the purposes of paragraph (3)) as having been generated using the relevant additional capacity is the relevant percentage (the relevant percentage for these purposes being the relevant additional capacity at the date of generation of the electricity expressed as a percentage of the station's total installed capacity at that date).

(5) In this article—

“existing generating station” means a generating station which was accredited as at 25th June 2008;

“new generating station” means a generating station which was accredited after 25th June 2008;

“original capacity”, in relation to a generating station, means—

- (a) in the case of an existing generating station, the capacity of the station as accredited and any additional capacity which (in the Authority's view) formed part of the station by 25th June 2008;
- (b) in the case of a new generating station, the capacity of the station as accredited.”.

Microgenerators

9. For Article 27 (microgenerators) substitute—

“Microgenerators

27.—(1) This Article applies to a generating station which—

- (a) is a microgenerator,
- (b) has not had a declared net capacity in excess of 50 kilowatts at any time after 31st March 2009, and
- (c) is not a qualifying onshore wind station or a qualifying hydro station or a qualifying solar photovoltaic station.

(2) The amount of electricity to be stated in each NIROC which is issued in respect of electricity generated by a generating station to which this Article applies is megawatt hour.

(3) In this Article and in Articles 27A and 27B—

“qualifying hydro station” means a hydro generating station which was accredited after 31st March 2010 and has not had a declared net capacity in excess of 1 megawatt at any time after 31st March 2010;

“qualifying onshore wind station” means a generating station which

- (a) generates electricity from onshore wind,
- (b) was accredited after 31st March 2010, and
- (c) has not had a declared net capacity in excess of 250 kilowatts at any time after 31st March 2010;

“qualifying solar photovoltaic station”, means a generating station which—

- (a) generates electricity from the direct conversion of sunlight into electricity,
- (b) was accredited after 31st March 2010, and

- (c) has not had a declared net capacity in excess of 50 kilowatts at any time after 31st March 2010.

Qualifying onshore wind stations and qualifying solar photovoltaic stations

27A.—(1) This Article applies to a generating station which is—

- (a) a qualifying onshore wind station, or
 (b) a qualifying solar photovoltaic station.

(2) The amount of electricity to be stated in each NIROC which is issued in respect of electricity generated by a generating station to which this Article applies is megawatt hour. *

Qualifying hydro stations

27B.—(1) This Article applies to a generating station which is a qualifying hydro station.

(2) The amount of electricity to be stated in each NIROC which is issued in respect of electricity generated by a generating station to which this article applies is—

- (a) in relation to a qualifying hydro station which has not had a declared net capacity in excess of 20 kilowatts at any time after 31st March 2010, megawatt hour; *
- (b) in relation to a qualifying hydro station which has had a declared net capacity in excess of 20 kilowatts but not in excess 250 kilowatts at any time after 31st March 2010, megawatt hour; *
- (c) in relation to a qualifying hydro station which has had a declared net capacity in excess of 250 kilowatts at any time after 31st March 2010, ½ megawatt hour.”.

Generating Stations which were accredited as at 11th July 2006

10. In Article 28(2) of the 2009 Order (Generating Stations which were accredited as at 11th July 2006) in paragraph (2) after the words “to which this Article applies” insert “is”.

Refusing to issue and revoking NIROCs

11.—(1) Article 37 (refusing to issue and revoking NIROCs) is amended as follows.

- (2) In the last line of paragraph (2) for “must” substitute “may”.
- (3) In paragraph (4)(a) after “NIROC” insert “is accurate or”.
- (4) After paragraph (6) insert—
- “(7) This Article is subject to Article 37A(2) to (4).”.

Refusing to issue and revoking NIROCs: supplemental

12. After Article 37 (refusing to issue and revoking NIROCs) insert—

“Where NIROCs cannot be revoked

37A.—(1) A NIROC cannot be revoked where it has been produced to the Authority under Article 5 (the renewables obligation).

(2) Nor can a NIROC be revoked by the Authority under Article 37(2) or (4) more than six years after it has been issued.

(3) Where the Authority would have revoked a NIROC (“the original NIROC”) under Article 37(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 NIROC (“the further NIROC”) in respect of electricity generated by the generating station in relation to which the original NIROC was issued.

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

- (a) issued no more than six years previously, and
- (b) not issued to an electricity supplier under Article 32(2) and (3).”.

Late payments to discharge the renewables obligation

13. In Article 41 (late payments to discharge the renewables obligation), after paragraph (6) insert—

“(6A) If, by the end of the late payment period, the designated electricity supplier has not paid to the Authority the amount referred to in paragraph (2) and all interest required to be paid on that amount under paragraph (3), the supplier will not have discharged its renewables obligation for the relevant period.”.

Information to be provided to the Authority where electricity is generated from biomass

14. In Article 46 (information to be provided to the Authority where electricity is generated from biomass), in sub-paragraph 46(1)(a), after “from biomass” insert—

“(other than landfill gas or sewage gas)”.

Revocation, transitional and savings

15. In Article 53(3)(a) (revocation, transitional and savings) for “on” substitute “or”.

The 2009 Order: Schedule 1

16. In Schedule 1 (calculation of the Obligation)—

- (a) delete “,10” from the heading; and
- (b) for “2027” substitute “2033”.

The 2009 Order: Schedules 2, 3, 4

17. In Schedule 2 (electricity to be stated in NIROCs)—

(a) In Part 2 (Interpretation), at the appropriate place insert—

““dedicated biomass with CHP” means electricity generated from regular biomass by a qualifying combined heat and power generating station in a month in which the generating station generates electricity only from regular biomass or only from biomass;” and

““dedicated energy crops with CHP” means electricity generated from energy crops by a qualifying combined heat and power generating station in a month in which the generating station generates electricity only from energy crops or only from biomass;”.

(b) Parts 2, 3 and 4 of Schedule 2 shall be deleted and replaced by—
Articles 25(4) and (5) and 31(3)

“PART 2
AMOUNT OF ELECTRICITY TO BE
STATED IN NIROCS GENERALLY

<i>Generation type</i>	<i>Amount of electricity to be stated in a NIROC</i>
Electricity generated from sewage gas	2 megawatt hours
Co-firing of biomass	
Onshore wind	
Hydro-electric	
Electricity generated from landfill gas	
Co-firing of energy crops	
Energy from waste with CHP	1 megawatt hour
Geopressure	
Co-firing of biomass with CHP	
Standard gasification	
Standard pyrolysis	
Offshore wind	
Dedicated biomass	
Co-firing of energy crops with CHP	*megawatt hour
Wave	
Tidal-stream	
Advanced gasification	
Advanced pyrolysis	
AD	
Dedicated energy crops	* megawatt hour
Dedicated biomass with CHP	
Solar photovoltaic	
Geothermal	
Tidal impoundment – tidal barrage	
Tidal impoundment – tidal lagoon	

Article 28(3)

PART 3

AMOUNT OF ELECTRICITY TO BE STATED IN NIROCS WHERE ARTICLE 28(3) APPLIES

<i>Generation type</i>	<i>Amount of electricity to be stated in a NIROC</i>
Electricity generated from sewage gas	
Offshore wind	
Wave	
Solar photovoltaic	1 megawatt hour

Article 28(5) and (6) and 39

PART 4

AMOUNT OF ELECTRICITY TO BE STATED IN NIROCS WHERE ARTICLE 28(5) OR ARTICLE 29(4) APPLIES

<i>Generation type</i>	<i>Amount of electricity to be stated in a NIROC</i>
Electricity generated from sewage gas	1 megawatt hour"

Transitional and Savings

18. Nothing in this Order is to affect—

- (a) the issue and revocation of a NIROC in respect of electricity generated before 1st April 2010, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to such issue or revocation, under the 2009 Order;
- (b) the banding and grandfathering of a NIROC in respect of electricity generated before 1st April 2010, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to such banding or grandfathering, under the 2009 Order;
- (c) any obligations or requirements imposed on an operator of a generating station or some other person in respect of the obligation period ending on 31st March 2010, and anything which falls to be done or determined (whether by the generator or some other person) in relation to any such obligations and requirements, under the 2009 Order;
- (d) any obligations and functions of the Authority in respect of that obligation period, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to it, under the 2009 Order.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on
[] 2010.

A senior officer of the
Department of Enterprise, Trade and Investment

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Renewables Obligation Order (NI) 2009 (“the 2009 Order”)

The 2009 Order imposes an obligation (“the renewables obligation”) on all electricity suppliers, licensed under the Electricity Order (Northern Ireland) 1992 (“the Electricity Order”) who supply electricity in Northern Ireland, to produce a certain number of renewables obligation certificates in respect of each megawatt hour of electricity that each supplies to customers in Northern Ireland during a specified period known as an obligation period (Article 5). 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 Order provides for the renewables obligation to be administered by the Northern Ireland Authority for Utility Regulation (“the Authority”) who are responsible for issuing renewables obligation certificates (NIROCs) to renewable electricity generators 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.

Article 5 deletes Article 10 (Calculation C) of the 2009 Order to remove the ceiling of 20% on the level of the renewables obligation. Consequential amendments are made by Articles 3, 6 and 7 to remove references to calculation C in Articles 5(3), 11 and 12 of the 2009 Order.

Article 4 amends Article 9 (Calculation B) of the 2009 Order to increase the level of the percentage increase which is to be applied in calculation B from 8% to 10% for all obligation periods after 31st March 2011. 8% will be used for the 1st April 2010 to 31st March 2011 obligation period.

Article 8 inserts provisions to extend the end date for the NIRO from 2027 until 2033 and to introduce a limit of 20 years on the eligibility period for generators accredited after 25th June 2008.

Article 9 amends the provisions for microgenerators and certain small scale renewable generation to permit higher levels of support for qualifying generation.

Article 10 makes a correction to Article 28 of the 2009 Order.

Articles 11 and 12 amend Article 37 of, and insert a new Article 37A, into the 2009 Order. These amendments and new provisions allow the Authority, in certain circumstances, to reduce the number of NIROCs issued to a generator in any period to take account of NIROCs that had been wrongly issued to that generator within the previous 6 years.

Article 13 inserts a new paragraph 6A into Article 41 (Late Payments to discharge the renewables obligation) clarifying the existing legal position in relation to the late payment period (defined in Article 41 of the 2009 Order).

Article 14 amends Article 46 of the 2009 Order in order to exclude landfill gas and sewage gas from the biomass sustainability reporting requirements.

Article 15 makes a correction to Article 53 of the 2009 Order.

Article 16 makes consequential changes to Schedule 1.

Article 17 inserts definitions into Part 1 of Schedule 2 for “dedicated biomass with CHP” and “dedicated energy crops with CHP”. Article 17 also deletes and replaces Parts 2, 3 and 4 of Schedule 2.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Northern Ireland Statutory Rule: *The Renewables Obligation (Amendment) Order (Northern Ireland) 2010 No. 134*

Article 18 provides for some provisions of the 2009 Order to be saved in respect of outstanding obligations or requirements imposed by it.