

EXPLANATORY MEMORANDUM TO

THE RENEWABLES OBLIGATION (AMENDMENT NO.2) ORDER (NORTHERN IRELAND) 2013

2013 NO 174

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment to accompany the Statutory Rule (details above) which is laid before the Assembly in draft.
- 1.2 The Rule is made using powers conferred by Articles 52 to 55F and 66(3) of the Energy (Northern Ireland) Order 2003 and is subject to the draft affirmative resolution procedure.

2. Purpose

- 2.1 This Statutory Rule amends the Renewables Obligation Order (Northern Ireland) 2009 (the "2009 Order") in order to introduce changes to the Northern Ireland Renewables Obligation (NIRO).

3. Background

- 3.1 Articles 52 to 55 of the 2003 Energy Order provide the framework for the introduction of an obligation (a 'renewables obligation') on electricity suppliers requiring them demonstrate the supply of electricity from renewable energy sources to consumers. The current detail of that obligation (the 'NIRO') which was introduced in 2005 is contained in the 2009 Order.
- 3.2 The proposed Rule will amend the 2009 Order by introducing a six month grace period/extension for biomass combined heat and power (CHP) projects seeking accreditation until 30 September 2015. This proposal had been introduced in the Renewables Obligation (Amendment) Order (Northern Ireland) 2013 (Article 14 amending Article 26 of the 2009 Order) which was made on 23rd April 2013 and came into operation on 1st May 2013. However, the amended Article 26 contained some drafting errors which did not have the effect of implementing the policy objective as intended. This latest Order inserts a new Article 26 and Parts 2C to 2D of Schedule 2 of the 2009 Order.

Policy Objective of the Statutory Rule

- 3.3 The proposed Renewables Obligation (Amendment No.2) Order (Northern Ireland) 2013 will set out how electricity generated by qualifying combined heat and power stations is eligible for support under the NIRO.

Six month grace period/extension for Combined Heat and Power (CHP) projects

- 3.4 The recent consultation on changes to the Northern Ireland Renewables Obligation (NIRO) included a proposal, in line with the other two Renewables Obligations, to introduce CHP transition arrangements which would see the ending of the 0.5 ROC uplift for CHP projects after 31 March 2015. Instead, projects accrediting after this date would be required to take the relevant ROC level for electricity only generation together with the relevant Renewable Heat Incentive (RHI) tariff in place at that time.
- 3.5 Work is currently underway in Northern Ireland to determine an appropriate RHI tariff for biomass over 1MW and whilst this is intended to be in place by 1 April 2015, the Department is unlikely to be in a position to consult on the proposed tariff before mid 2013. This presents a difficulty for large scale biomass CHP projects which are already in development or nearing financial close which may accredit after 1 April 2015 but do not have a clear indication of the appropriate RHI support level.
- 3.6 Given the longer lead in time to introduce a RHI tariff for large scale biomass in Northern Ireland, the Department is therefore proposing to introduce a six month extension of the current band until 30 September 2015 for CHP projects accrediting under the NIRO. In order to be eligible for the extension, projects must be commissioned and accredited under the NIRO by 30 September 2015.

4. Consultation

- 4.1 The proposal to introduce a six month extension for biomass CHP projects until 30 September 2015 was contained in the large scale solar PV and biomass sustainability and value for money consultation which concluded on 15 January 2013. 12 responses were received in total. There were two responses to the proposal to introduce a six month grace period/extension to the CHP uplift, both of which were supportive.
- 4.2 As the purpose of this Statutory Rule is to correct a legislative drafting error and thus ensure that the original policy intent (for which there was support) is carried through, further full consultation was not deemed necessary. Instead, the draft Renewables Obligation (Amendment No.2) Order (Northern Ireland) 2013 was shared with the Northern Ireland Authority for Utility Regulation, the Consumer Council, Northern Ireland's electricity suppliers and other relevant stakeholders.

5. Equality Impact

5.1 The Renewables Obligation is a market-based mechanism whose rules apply in a non-discriminatory way to its participants. The proposed change will not alter this position. A full EQIA was not considered necessary as this Statutory Rule corrects a drafting error in the Renewables Obligation (Amendment) Order (Northern Ireland) 2013, the EQIA for which can be viewed at:

http://www.detini.gov.uk/eqia_screening_form_-_biomass_and_pv_consultation_-_signed_by_fiona_hepper.pdf

6. Regulatory Impact

6.1 The size of the whole Northern Ireland electricity market within the UK is approximately 2.5% of total consumption and the relative costs and benefits associated with the changes must be seen within this context. The special arrangement that Northern Ireland has within the UK-wide operation of the Obligation means that the Obligation level imposed on suppliers here is much lower than that in GB and indeed is much lower than the actual renewables generation in NI. This restricts the impact of any changes to NIRO support levels on consumer costs. This Statutory Rule corrects a drafting error in the Renewables Obligation (Amendment) Order (Northern Ireland) 2013, the Final Regulatory Impact Assessment for which can be viewed at

http://www.detini.gov.uk/deti-energy-index/deti-energy-sustainable/northern_ireland_renewables_obligation_.htm

7. Financial Implications

7.1 The NIRO is a market-led support mechanism through which the cost of providing support to renewable generators is borne by electricity consumers. There are no financial implications for DETI.

8. Section 24 of the NI Act 1998

8.1 This Rule does not contravene section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 There are no associated EU implications. The Renewables Obligations (including the NIRO) are support measures implemented in line with recommendations of the EC Renewables Directive (EC/2001/77), but are not a mandatory requirement of the Directive.

9.2 State aid clearance by the European Commission was approved on 29th April 2013.

10. Parity or Replicatory Measure

10.1 This Order is NI specific as it proposes the introduction of a six month extension for Combined Heat & Power projects until 30th September 2015. The support band for dedicated biomass with CHP is due to close on 31st March 2015 in GB.

11. Additional information

11.1 Not applicable.

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Department Of Enterprise, Trade and Investment
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