

EXECUTIVE NOTE

The Renewables Obligation (Scotland) Order 2006

Introduction

1. Scottish Ministers are committed to the promotion of renewable energy in Scotland. Previously, this commitment was carried out via the Scottish Renewables Obligation (SRO), under which 109 contracts were awarded to developers to build renewable energy projects. Many SRO schemes have now been commissioned, and more are expected to be commissioned over the next few years.

2. The output from the SRO schemes, coupled with the output from Scotland's existing large hydro stations, account for around 10-12% of Scotland's energy output. The Renewables Obligation (Scotland), or ROS, is designed to incentivise further generation of electricity from renewable sources in Scotland. Scottish Ministers have announced a target that 18% of electricity generated in Scotland should come from renewable sources by 2010, and an aspiration to increase that figure to 40% by 2020.

Content of the Order

3. The ROS, an affirmative order, was first made in 2002 under powers in the Electricity Act 1989 which have been executively devolved (as regards Scotland) to the Scottish Ministers. It imposes an obligation on electricity suppliers to provide an increasing percentage of that supply from qualifying renewable energy sources. In line with agreed policy and the wishes of the relevant electricity market stakeholders, it was designed in almost identical terms to the Renewables Obligation Order (the ROO) covering England and Wales, which also came into force on April 1 2002. Following technical reviews of its early operation, the ROS was revised and replaced in April 2004 and April 2005

4. The ROS extends to Scotland only, and has an effect on all licensed electricity suppliers supplying electricity in Scotland. The amount of each such electricity supplier's renewables obligation is calculated by reference to its total supplies of electricity to customers in Scotland during the relevant obligation period. However, such an electricity supplier can satisfy its obligation by producing evidence to the Authority (Ofgem, the industry regulator) showing that it (or another electricity supplier) has supplied electricity generated from renewable sources to customers in Great Britain. Thus, in theory, an electricity supplier with an obligation under the ROS can satisfy all its obligation by supplying electricity generated from renewable sources to customers in England and Wales, or by producing evidence in the form of certificates that another electricity supplier has done so on its behalf. An electricity supplier can also discharge its renewables obligation by making a payment into the buy-out fund, by producing certificates (NIROCs) issued by the Northern Ireland Authority or by producing certificates concerning the supply of electricity to customers in Northern Ireland.

5. Regardless of where the electricity is supplied to customers, it can be generated anywhere within "the United Kingdom" as that term is defined in the order. The operator of a generating station situated in the United Kingdom has a free choice as to whether to apply for certificates issued by the Authority under the ROS or under the equivalent England and Wales Order. In the ROS, references to certificates issued under section 32B of the Electricity Act cover certificates issued under either that Order or its Northern Ireland or

England and Wales equivalent, while references to SROCs relate only to certificates issued under the ROS.

Enabling powers

6. The ROS is being made under powers conferred by sections 32 to 32C of the Electricity Act 1989, as amended by the Utilities Act 2000 and the Energy Act 2004. The powers were executively devolved to the Scottish Ministers as regards Scotland by means of Orders under the Scotland Act 1998.

Consultation

6. Prior to its introduction in April 2002, the ROS was the subject of two consultations, the first between November 2000 and February 2001, and a formal statutory consultation between August and October 2001. A statutory consultation also took place prior to the introduction of the ROS Orders in 2004 and 2005, which repealed and replaced the 2002 and 2004 Orders respectively. A fresh consultation exercise took place between September and December 2005, proposing the introduction of measures arising from the conduct of a fundamental review into the operations of both the ROS and the ROO since their introduction in 2002. The new measures introduce eligibility for a particular form of energy from waste, a reduction in the purity threshold for biomass material, and a number of changes affecting administrative and technical procedures under the Order. Respondents were drawn from a wide range of groups, including electricity generators and suppliers, environmental organisations and NGOs. A full list of respondents is available on request from the Scottish Executive Renewables and Consents Policy Unit.

European Directive

7. The ROS, in tandem with the ROO, forms an important part of the UK's compliance with article 3.1 of the European Directive on the promotion of electricity produced from renewable sources ([Directive 2001/77/EC](#)). Article 3.1 provides that member states shall take appropriate steps to encourage greater consumption of renewable electricity in pursuit of national indicative targets. A copy of the Directive is attached to this Executive Note.

State Aids

8. All UK Renewables Obligation Orders require State Aid clearance as the recycling of buy-out funds to compliant suppliers is deemed by the Commission to constitute a State Aid. The UK Government has applied for the Commission's approval to the latest amendments, and this was received during December 2005.

Financial Impacts

9. The ROS creates small additional costs for electricity suppliers, which are then passed through to industrial, business and domestic consumers. These issues are addressed in more detail in the Regulatory Impact Assessment which is available from the Energy Policy Unit, the Scottish Executive Enterprise and Lifelong Learning Department, 5 Cadogan Street, Glasgow, G2 6AT.

Scottish Executive Renewables and Consents Policy Unit
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