

EXECUTIVE NOTE
The Renewables Obligation (Scotland) Order 2006 SSI/2006/173

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
January 2006**

Regulatory Impact Assessment Renewables Obligation (Scotland) Order 2006

1. TITLE OF PROPOSAL

The Renewables Obligation (Scotland) Order 2006 SSI/2006/173.

2. PURPOSE AND INTENDED EFFECT OF MEASURE

2.1 The purpose of the Renewables Obligation (Scotland) Order 2006 (the ROS) is to implement changes to the existing ROS following a review conducted during 2005. The review sought to ensure that the ROS continues to work as cost effectively as possible in stimulating the generation of renewable electricity and thereby contributes to reducing carbon dioxide emissions up to 2010 and beyond, both in Scotland and across the UK. The ROS review statutory consultation document set out proposals for a limited number of changes to the ROS. Amendments to the ROS are now being made in the following areas:

- **Eligibility rules in the area of energy from mixed wastes.** The changes here aim to deliver some additional renewable generation from biomass and mixed wastes without undermining the wider operation of the ROS
- **Processes relating to the administration of the Obligation.** The changes here aim to improve the administration of the ROS and reduce regulatory burdens on companies that benefit from or are required to comply with the ROS.

2.2 This Regulatory Impact Assessment (RIA) assesses the impact of these changes. The statutory consultation also set out some proposals which are not being taken forward in the ROO 2006 and details of these are also set out later in this RIA.

2.3 The RIA begins with some relevant background on the ROS, how it is administered and the recent review. Subsequent sections of the RIA discuss the individual amendments to the Order in more detail.

PART 1 – BACKGROUND TO THE RENEWABLES OBLIGATION AND GENERAL ISSUES

3. POLICY BACKGROUND

3.1 The ROS is the Executive's main policy measure to encourage the development of electricity generation capacity using renewable energy sources in Scotland. The ROS has already provided and will continue to provide, an impetus for the new renewable generating capacity that will be needed to meet the Scottish Executive's ambitious targets that 18% of electricity generated in Scotland by 2010 should come from renewable sources, rising to 40% by 2020. It operates alongside a range of additional initiatives promoting and supporting renewables, both at a Scotland and a UK level.

3.2 The ROS was introduced in 2002. The details of the Obligation are contained in the Renewables Obligation (Scotland) Order 2005 in Scotland, the Renewables Obligation Order 2005 in England and Wales and the Northern Ireland Renewables Obligation Order 2005. RIAs were produced for the implementation of the Obligation in Scotland and England & Wales and their subsequent amendments.

3.3 The ROS is a key part of the Scottish Executive's policies to reduce CO₂ emissions and tackle climate change. It requires licensed electricity suppliers to ensure that specified and increasing amounts of the electricity they supply are from renewable sources, rising to 15.4% in 2015/16. Without the financial support provided by the Obligation, most forms of renewable electricity would not be economic and the Scottish Executive would not achieve its targets for increasing the supply of electricity from renewable sources. The Scottish Executive believes that, through the support of the Obligation, renewable sources of electricity will become increasingly economic over time and will play an increasing part in its efforts to reduce carbon emissions and address climate change.

3.4 A commitment was included in the 2003 Energy White Paper to undertake a review of the UK Renewables Obligations in 2005 to assess their effectiveness after 3 years of operation. This review is now complete and the Renewables Obligation (Scotland) Order 2006 sets out in legislation the changes to the ROS resulting from the Review.

4. REGULATORY BURDENS & COMPENSATORY SIMPLIFICATION

4.1 The ROS is already set out in legislation, which was introduced in 2002, with subsequent amendments in 2004 and 2005. The major regulatory burden imposed by the ROS is that, in order to provide additional support for the generation of electricity from renewable sources, costs to all electricity consumers are increased. These costs are capped by the level of the obligation on suppliers and the level of the “buyout” price in the ROS. The previous RIAs referred to in paragraph 3.2 above considered the costs and benefits of the introduction and subsequent extension of the ROS at the time that those measures were introduced. The ROS 2006 does not contain any increases in Obligation levels or any changes to the buy-out price, and there are no other changes considered in this RIA which will create additional costs for electricity consumers.

4.2 Aside from issues of costs to consumers, the ROS imposes some regulatory burdens on renewable generators and the electricity supply industry in relation to the administration which is required to benefit from and comply with the scheme. The amendments to the ROS 2006 include a number of detailed changes that will make it easier for renewable generators to benefit from the Obligation and electricity suppliers to comply with it. This will reduce the regulatory burdens on business.

The full list of changes being made to the ROO are detailed briefly below:

- a) modifications to the waste eligibility provisions to allow Renewables Obligation Certificates (SROCs) to be issued for the electricity generated from the biodegradable element of waste by certain combined heat and power generating stations;
- b) amendment to the definition of “biomass” so that only 90% of a substance has to have been derived from plant or animal matter to qualify as biomass rather than the previous level of 98%;
- c) new provisions setting out a pre-accreditation procedure for generating stations which have not yet been commissioned;
- d) amendments to the SROC issue procedure allowing Ofgem greater flexibility in relation to the late issue of SROCs and correction of data errors;
- f) simplification of existing provisions so that generators only have to submit an annual rather than monthly declaration to Ofgem confirming various details relating to electricity in respect of which SROCs have been claimed;
- g) provision for Ofgem to allow reduced fuel sampling requirements for generators using established fuels;
- h) alterations to the timetable for suppliers submitting their yearly compliance data and to the timetable for Ofgem recycling the buyout fund and late payment fund;
- i) an amendment to the definition of “input electricity” to prevent the “double counting” of SROCs being claimed from the generation of electricity from hydrogen;
- j) a requirement that Ofgem publish information on SROCs claimed by generators but not yet issued.

4.3 In total these changes aim to improve the operation of the scheme and will help to ease the burden on companies who are involved in either benefiting or complying with the ROS. Some of the changes have the potential to increase costs for Ofgem, the administrator of the Obligation, and any such additional costs would be passed on to the electricity industry through increased licence fees. However, where such changes are being implemented it is because they have the potential to reduce burdens (and thus costs) for companies operating within the Obligation framework. Moreover many of the changes should reduce administrative costs for both Ofgem and companies. The Renewable Energy Association (REA) – a leading trade association for renewable generators – has confirmed that, whilst the beneficial impact is hard to quantify, the proposed amendments to the administration of the Obligation have the broad support of the industry, and should help to improve the operation of the scheme for participating companies. There are no changes being brought forward which will materially increase the administration or compliance costs for companies or organisations involved in benefiting from or complying with the ROS.

5. BUSINESS SECTORS AFFECTED BY THE RENEWABLES OBLIGATION

5.1 The main business sectors affected by the ROS are companies involved in the generation of renewable electricity and companies involved in the supply of electricity to all electricity consumers. Users of biomass materials for non-energy generation purposes may be affected through increased competition for these materials. Large consumers of electricity may be particularly affected given that the ROS increases the cost of electricity.

5.2 As noted above there are no changes which would further increase the cost of electricity to consumers. A considerable number of changes will ease the administrative burden on companies who benefit from or must comply with the ROS. Reduction of the 98% rule for the definition of biomass (see para

14.1) should increase supplies of biomass fuels eligible for the ROS and may therefore ease competitive pressures for some industries active in this area.

6. ISSUES OF EQUITY AND FAIRNESS

6.1 The ROS is a market-based mechanism whose rules apply in a non-discriminatory way to all participants in the renewables industry and electricity sector. This will remain the case with all the changes contained in the ROS 2006.

7. CONSULTATION WITH SMALL BUSINESS: THE SMALL FIRMS' IMPACT TEST

7.1 The major regulatory impact on the large majority of small businesses arising from the ROS comes from the increased costs of electricity which affect all electricity consumers. There are no changes contained in the ROS 2006 which will give rise to further increases in electricity costs, for small businesses or any other consumers of electricity.

7.2 A much smaller subset of small businesses active in the generation of renewable energy and/or the supply of electricity to customers in Scotland are likely to be more affected by the changes to the ROS. Prior to and following the publication of the preliminary consultation and then the statutory consultation the Scottish Executive has held a wide range of meetings with relevant stakeholders, companies and trade associations. These included small firms and organisations who represent small firms active in these sectors. The Scottish Executive has also received 58 responses to the preliminary consultation and a further 27 responses to the recent statutory consultation.

7.3 As a result of these consultations the Scottish Executive does not consider that the amendments to the ROS are likely to give rise to any specific concerns for small businesses operating in the affected sectors. The range of administrative simplifications have been welcomed by smaller

generators of renewable electricity – which in many cases will also be small businesses.

8. COMPETITION ASSESSMENT

8.1 The ROS is a market based instrument which operates in a competitive market for electricity. The rules of the ROS apply in a non-discriminatory way to all participants in the renewables industry and electricity sector. This will remain the case with all the amendments to the ROS and there are no changes that will be likely to have any material impact on competition in the electricity market.

9. ENFORCEMENT AND SANCTIONS, COMPLIANCE & MONITORING

9.1 The Renewables Obligation Orders are administered and enforced by Ofgem. Non-compliance with the Obligation is considered as a breach of a 'relevant requirement' of a supplier's licence and Ofgem may impose appropriate sanctions. Ofgem reports annually on its administration of the Obligation and conducts regular audits in relation to compliance with the Obligation. The impact of the Obligation on the development of renewable energy is monitored by the Executive on the basis of statistics produced by the Department of Trade and Industry and its own detailed information on projects under development.

9.2 There are no changes to the ROS which will increase the burdens on business through imposition of additional enforcement or inspection measures. Nor are there any new powers of sanction proposed. A number of proposals are being brought forward to ease the process of benefiting from or complying with the ROS.

10. OTHER REGULATORY IMPACT ISSUES

10.1 The ROS 2006 brings forward a number of limited proposals for changes to the operation of the Obligation. We do not consider that any of the proposals give rise to any negative impacts in relation to health, the environment or race equality issues, or are likely to have a material impact on the rural economy.

11. POST-IMPLEMENTATION REVIEW

11.1 The Scottish Executive will continue to monitor the performance of the ROS and liaise closely with both the Department of Trade and Industry and Ofgem on issues relating to the administration of the Obligations at a GB level and compliance with it. This will include monitoring the impact of the changes which are contained within this RIA. The Scottish Executive has shown its willingness in this and in previous years to bring forward adjustments to the ROS to improve its effectiveness and this will remain the case, while balancing the needs of investors and developers in renewable energy to have a stable and consistent regulatory framework which avoids un-necessary changes.

11.2 There are likely to be further changes to the ROS in 2007. The Scottish Executive has announced its intention to examine whether the ROS might be amended to award additional support to output from wave and tidal energy devices, and this will be the subject of consultation during 2006. There are also changes for small generators which were proposed as part of the recent review statutory consultation but which cannot be brought in until the appropriate primary legislation is in place. The primary legislation is currently going through the UK Parliament and subject to Parliamentary approval this will then allow for the secondary legislation (i.e. the ROS) to be amended.

11.3 The recent statutory consultation also proposed reducing support for future landfill gas projects. Further consultation work will take place on this issue also with a view to making final decisions and implementation into legislation in 2007.

12. CONSULTATION

The Scottish Executive consulted in the summer of 2004 on the terms of reference for this Review and these were finalised in November 2004. The Scottish Executive then published a preliminary consultation document in March 2004, which set out a range of options for change in the areas covered by the Review. A 12-week period of consultation and discussion with a wide range of stakeholders followed, including in particular consultation and meetings with companies and trade associations active in the areas of renewable energy generation and electricity supply. Following the analysis of consultation responses, and liaison with colleagues across the Executive and in the UK Government on different options, a statutory consultation was published which brought forward a range of specific proposals for amendments to the Renewables Obligation (Scotland) Order and consulted on their implementation. Copies of the consultation documents and associated documents can be found [here](#).

The amendments to the UK Obligations have also been notified to the European Commission for State Aids purposes and received State Aids Clearance.

PART 2 – CONSIDERATION OF SPECIFIC PROPOSALS

13. SUMMARY OF COSTS AND BENEFITS OF PROPOSALS

13.1 The changes to the ROS set out in this RIA are quite complex in detail but, overall, represent relatively limited change to the overall regulatory framework created by the Obligation. The individual changes are considered in more detail below. The table below presents a summary assessment of the major costs and benefits of the amendments.

Amendment Area	Key Benefits	Additional financial costs to electricity consumer?	Other costs?
Amendments to ROS eligibility rules in area of mixed wastes	<p>Additional flexibilities for biomass/waste generators</p> <p>Potential for additional waste wood to be used for power generation.</p> <p>Potential for additional generation from energy from waste plants using CHP</p>	No	Potential for some impacts on confidence in stability of Obligation, but manageable as changes are limited in scope.
Amendments to Administrative processes within	Reduced regulatory burdens on business	No	Some limited costs arising from adjustments to

the Obligation			existing procedures
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13.2 Further detailed information on each amendment and the alternative options considered during the Review is given below.

14. ENERGY FROM MIXED WASTES

What are the changes?

14.1 Two relatively limited changes to the ROS eligibility rules in the area of mixed wastes are being made.

- Reducing the definition of biomass from fuel which is over 98% pure biomass to a lower figure of 90%.
- Extending ROS eligibility to mixed waste plants using good quality Combined Heat and Power (CHP).

Why are the changes being made and what are the benefits?

14.2 Reducing the 98% rule to 90% will offer the potential for a wider range of fuels which are very largely biomass in content to be used to generate renewable energy – in particular waste woods which are 90% plus biomass in content but do not easily meet the 98% threshold. The Waste Recycling Action Programme (WRAP) estimates that around 5-7 million tonnes of wood waste is currently generated per annum across the UK. Of this around 1.4 million tonnes were recovered in 2004. WRAP consider that an additional 1.5 million tonnes of high quality waste wood and around an additional 2-3 million tonnes of contaminated waste wood could potentially be recovered – though it would be likely to take many years to build up the infrastructure necessary to divert such large additional volumes of waste wood from landfill. Actual demand from the power sector for such waste woods is also likely to be

constrained by a range of other factors including alternative competing uses for the material, the difficulties of developing secure supply chains, issues of contamination and the application of the Waste Incineration Directive (WID).

14.3 Responses to the ROS review statutory consultation presented the view that a substantial amount of waste wood and other contaminated biomass streams are typically in the range of 93-97% biomass, and as the accuracy of measurement is limited to some degree, the changes to the ROS will allow more of these materials to be brought into the scope of the Obligation. Guidance on measurement of issues relating to contaminated biomass fuel streams in respect of all Obligations will be developed through the UK Biomass Fuels Working Group.

14.4 In relation to extending eligibility to mixed waste plants using Combined Heat and Power (CHP), additional work undertaken by ILEX Energy Consultants was published alongside the statutory consultation. This suggested that energy from waste projects utilising CHP would offer net environmental advantages over conventional electricity-only plant but also face additional costs which would justify offering such projects the support of the Obligation. ILEX's work suggests that even with support under the Obligations, the development of new energy from waste (EfW) projects utilising CHP would be heavily constrained by a range of factors – in particular the limited number of sites and locations with suitable heat loads and other factors which will influence decisions on the location of energy from waste plants. While there is uncertainty over potential take-up, ILEX present a range of scenarios in which the number of additional ROCs generated could be between 2 and 4% of the Obligations in the period 2011-2015, potentially rising to 3-5% by 2021.

14.5 Respondents to the statutory consultation were evenly split on this issue of whether to include EfW CHP, with a slight majority in favour. The Scottish Executive considers that the change will be beneficial, given the additional carbon savings which can be achieved if wastes are burned in a CHP plant. The approach the Scottish Executive is adopting on this issue is

similar to that in place for the Climate Change Levy, which uses the CHP Quality Assurance scheme. For CHP plants that are fully compliant with the Good Quality benchmark (i.e. they have a high efficiency of electricity generation and heat use), they would receive SROCs on all of their biomass-generated electricity. For those plants that are partially compliant (typically with a lower or intermittent heat use), they would receive SROCs on a lower fraction of their electricity generation. This will be determined by the relationship between their qualifying power output (QPO) and total power output (TPO) in the same manner as for the CCL exemption. For example, a plant that uses a waste stream that is 50% biomass and is 70% CCL compliant (that is QPO is 70% of TPO) would receive ROCs on 35% (70% of 50%) of their electricity generation. The basis for this approach is that it will ensure that eligible projects always receive some SROCs on their electrical output, while maintaining a clear incentive to maximise the efficiency of the project.

14.6 ROC eligibility for EfW CHP projects will be available for both existing and new projects. This will provide an incentive for existing projects to improve their use of heat and could even be an incentive to convert from electricity only to CHP for those in appropriate locations. The QPO and TPO will be based on the most recent certificate held by the generator, but unlike the CCL, we do not intend to introduce an end-of-year reconciliation process.

What are the costs?

14.7 The Scottish Executive does not consider that the limited changes being made in this Order have any significant costs or negative impacts. There will not be any increase in costs to electricity consumers. Consultation with relevant industry and stakeholders has highlighted some concerns about the potential impact on the supply/demand balance for SROCs from changes in this area – however the relatively limited nature of the proposed changes means that their impact on the SROC market is also likely to be limited. The consultation process has not indicated that there are any other financial or hidden costs associated with these changes.

What are the alternative options?

14.8 ***Do nothing.*** This option would offer some benefits in terms of market confidence in the stability of the Obligations but would mean that the potential for additional renewables generation and flexibility offered by the changes would not be brought forward.

14.9 ***Making the ROS neutral to waste.*** This would give generating stations additional flexibility to burn mixed wastes without losing ROS eligibility for pure biomass fuels burned in the generation station by removing the current constraint in the ROS that means biomass and mixed wastes cannot be burned together in the same plant.

14.10 In the statutory consultation there was substantial support amongst respondents for the policy objectives of this proposal. However, a number of detailed concerns over the implementation and practical consequences of this option were raised during the consultation. There was particular concern over the interaction of this new rule with the existing cap on co-firing; the interaction with a lowered purity requirement for biomass; and the creation of a potentially perverse incentive to segregate wastes before burning them. This can be illustrated by considering a waste stream that is 80% biomass and 20% plastics – under the neutral to waste option, there would be an incentive to segregate the waste to produce a high purity biomass stream and a waste residue, which could then be burned together, with SROCs being awarded for the biomass fraction. Had the un-separated waste been burned in the same plant, no SROCs would have been awarded.

14.11 ***Make much more broader changes to eligibility rules in this area, allowing the large majority of energy from mixed waste projects to be eligible for ROCs.*** Analysis by ILEX Energy Consultants, published alongside the preliminary consultation document, suggested that the majority of new energy from mixed waste projects will not need the support of the Obligations to be economic. In the circumstances, this option would be

vulnerable to the criticism that the Scottish Executive was providing unnecessary subsidies, at a cost to the electricity consumer. This option could also give rise to unpredictable but potentially large volumes of new SROCs, with a consequent negative impact on market confidence in the Obligation and the economics of other renewable energy projects. Removing any negative impact would require an increase in the level of the ROS, which would impose significant additional costs on electricity consumers.

15. ADMINISTRATION OF THE RENEWABLES OBLIGATION

15.1 A number of detailed amendments and simplifications of administrative processes related to the ROS are proposed. These are considered individually in detail below.

a) Pre-Accreditation for ROCs

What is the change?

15.2 The amendments to the ROS are to introduce a system of pre-accreditation for ROC eligibility. This system aims to allow developers of renewable energy projects to have certainty that their developments will be eligible for support under the Obligation prior to the financing and construction of such projects.

Why is this change being made and what are the benefits?

15.3 At present, for some renewable technologies (eg generation from mixed wastes using advanced conversion technologies) in some situations, there can be uncertainty as to whether a particular design of project or scheme will be eligible for the support of the renewables obligation. This uncertainty can inhibit the development and financing of new renewable projects, or lead to additional costs.

15.4 Responses to the statutory consultation showed almost unanimous support for this change with most agreeing that the appropriate time for pre-accreditation was after planning consent was obtained.

What are the costs?

15.5 The change may result in some additional work for Ofgem in determining whether specific proposals will be eligible for the support of the Obligation prior to construction. The Scottish Executive considers this an acceptable cost given the clear benefits in relation to potential new renewable energy developments.

What are the alternatives?

15.6 ***Do Nothing.*** This option would not resolve the uncertainties mentioned above.

b) SROC Issuing

What is the change?

15.7 To allow Ofgem greater flexibility in relation to late SROC issuing and data errors where appropriate or where the circumstances are exceptional.

Why is the change being made and what are the benefits?

15.8 Currently Ofgem has very limited flexibility when dealing with claims by generators which are either late or where claims were submitted on time but at a later point an error in the data is identified. This can result in SROCs not being issued at all or incorrect numbers of SROCs being issued where issue is based on erroneous data. Providing Ofgem with the flexibility to accept late claims and corrected claims should benefit participants in the market but generators in particular as it introduces a more pragmatic approach to the

handling of data and issuing of SROCs. The circumstances where this flexibility will apply will be detailed in guidance.

What are the costs?

15.9 There are no significant costs associated with this proposal.

What are the alternatives?

15.10 ***Do Nothing.*** This option would not deliver the flexibility for Ofgem outlined above and the potential for generators to lose SROCs or to receive incorrect numbers of SROCs due to late applications and errors in data would still exist.

c) Other simplifications for claiming of SROCs

What is the change?

15.13 This change allows generators to submit the Article 4(10)c declaration, which confirms that renewables electricity on which ROCs are claimed has been supplied to customers in the UK, to be submitted on an annual basis as opposed to monthly.

Why is this change being made and what are the benefits?

15.14 This change received unanimous support in responses to the statutory consultation and will ease administration burdens for both generators and Ofgem, making the process of claiming and issuing ROCs easier. An estimate of the benefit of the change is that it could save up to £300 per site per year.

What are the costs?

15.15 There are no costs associated with these proposals.

What are the alternatives?

15.16 ***Do Nothing***. The benefits in terms of reduced administrative burdens will not be gained with this option.

d) Measurement of fuels

What are the changes?

15.17 The Scottish Executive is making a number of changes to reduce the administrative burden on users of biomass fuels. Firstly by allowing Ofgem to reduce the frequency of requirements to submit sampling data where biomass generators can demonstrate past evidence about the calorific value and biomass purity of a fuel. This approach is consistent with a wider policy of reducing the overall regulatory burden on industry, focusing instead on a risk-based model of enforcement.

15.18 Secondly, the Scottish Executive is also amending the legislation to clarify that off-site measurement of biomass fuels can be acceptable as the basis for claims for SROCs where Ofgem can be satisfied that the measurements in question are robust and will accurately reflect the calorific value and biomass content of the fuels which are used to generate electricity.

Why are these changes being made and what are the benefits?

15.19 The first change – to reduce the sampling requirement for established fuels - will reduce the burden on both generators and Ofgem. This will help make the process of claiming and issuing SROCs easier. In responses to the statutory consultation a large majority of respondents were in favour of this change. An estimate of the potential benefit of the change is that it could save in the region of £5-10k per site per year for some biomass generators.

Ofgem will consult separately on the guidance for this which will be developed through the UK Biomass Fuels Working Group.

15.20 The use of off-site measurements may allow generators of biomass to develop more efficient processes for the supply of biomass to their plants. This change was also strongly supported in responses to the statutory consultation and development of guidance will be through the UK Biomass Fuels Working Group.

What are the costs?

15.21 There are no costs associated with reducing the sampling requirement for established fuels. However, assessing the robustness of off-site measurements of biomass is likely to give rise to some additional work for Ofgem. At the same time the use of such measurements has the potential to reduce costs for industry.

What are the alternatives?

15.22 ***Do nothing.*** The benefits in terms of reduced administrative burdens will not be achieved.

15.23 ***Allow declarations for biomass measurement.*** The statutory consultation contained a proposal to allow Ofgem to accept a declaration from generators in lieu of certain supporting paperwork relating to claims for SROCs generated from biomass. This proposal was generally considered to be of limited value by respondents as the data would have to be collected for audit purposes, and most generators would rather have the certainty that comes with submitting it to Ofgem, and were concerned that the proposal would increase the risk of SROC revocation.

e) Timetable for supplier compliance with the Obligation

What are the changes?

15.23 The amendment to the ROS is to speed up the timetable for supplier compliance by requiring electricity suppliers to notify the Department of Trade and Industry (DTI) and Ofgem simultaneously in June of their electricity sales levels for the previous Obligation period (e.g. in June 2007 for the Obligation period 2006/7). The new timetable would be as follows:

- Suppliers notify DTI and Ofgem of their electricity sales by 1 June
- Suppliers notify Ofgem of the Renewables Obligation by 1 July (this figure will include Article 13 – sale and buyback – figures which are not available by 1 June)
- Suppliers demonstrate compliance with the Obligation by 1 September through presentation of SROCs or payment of buyout
- Late payment period runs from 1 September to 31 October
- Ofgem recycle buyout fund by 1 November
- Ofgem recycle late payment fund by 1 January

Why is the change being made and what are the benefits?

15.24 The change to the timetable for supplier compliance will speed up the time between the end of the obligation period and the recycling of buyout payments. This should in turn increase the cash flow to SROC holders and decrease the risk of supplier default impacting upon the size of the buyout fund. In responses to the statutory consultation there was strong support for revising the compliance timetable, bringing forward buyout payments and buyout recycling.

What are the costs?

15.24 There are no costs (only benefits) to renewable generators from this change. For electricity suppliers their financial position will depend on whether they are likely to be net beneficiaries or losers from the process of recycling of buyout funds. Net beneficiaries will benefit from faster recycling.

Net losers may face additional costs. This is consistent with the Scottish Executive objectives of encouraging electricity suppliers to meet as much of their renewables obligation as possible from renewable electricity as opposed to paying the buyout.

What are the alternatives?

15.25 ***No change to the current timetable for supplier compliance.*** This option would not deliver the benefits outlined above.

f) Storage

What is the change?

15.26 The Scottish Executive is making a minor amendment to the definition of input electricity to avoid the position where electricity generated from hydrogen which is itself produced from electricity generated from renewable sources in effect receives SROCs twice (once from each process).

Why is this change being made and what are the benefits?

15.27 The change will close a potential loophole under which electricity consumers would be paying to over-reward some forms of renewable generation. This has been identified as a potential problem as we are not aware of any SROCs being claimed from use of hydrogen. Almost all respondents to the statutory consultation were in favour of this change.

What are the costs?

15.28 There are no costs associated with this proposal.

What are the alternatives?

15.29 ***Do nothing***: the potential loophole would remain open under this option.

g) SROCs Claimed But Not Issued

What is the change?

15.30 That Ofgem will publish the figure for SROCs that have been claimed but not yet issued (in aggregate across all generators) for each Obligation period.

Why is this change being made and what are the benefits?

15.31 Where generators provide all required information within the statutory deadline and meet all relevant criteria, Ofgem will issue SROCs in a batch in accordance with its published timetable. There are, however, some circumstances under which the issue of SROCs is delayed. It is possible that where there are delays in the issuing of SROCs this can have an impact on the market and calculations made by market participants with regard to the number of SROCs likely to be issued during a compliance period. It is argued that by publishing a figure for the number of SROCs claimed this would increase transparency in the SROC market. Responses to the consultation on this change showed near unanimous support.

What are the costs?

15.32 This change will result in some additional work for Ofgem but the costs of publishing a single figure to show the total number of SROCs claimed but not issued are relatively low.

What are the alternatives?

15.33 ***Do nothing:*** There are situations where the number of SROCs issued will differ from the number claimed by generators, including occasions when no SROCs at all will be issued. Publishing information on the number of SROCs claimed could, potentially, be as misleading for market participants as the existing situation where no information is available. However, given the very strong industry support for this change it is considered on balance that it would not be appropriate to do nothing.

16. AREAS FOR CHANGE CONSIDERED BUT NOT TAKEN FORWARD IN THE 2006 RENEWABLES OBLIGATION ORDER

16.1 As stated at paragraph 11.2, the Scottish Executive intends to examine the Obligation's potential to award additional support to wave and tidal energy during 2007. There are two further areas – low cost renewable technologies and small generators – which were included in the statutory consultation, but where the Scottish Executive intends to take forward its proposals in 2007 rather than introducing them in the 2006 Order. Details of the proposals are outlined below.

a) Low Cost Renewable Technologies

What is the proposal?

16.2 The Scottish Executive is proposing that, from 1 April 2009, support for new landfill gas projects within the ROS should be reduced – with SROC eligibility being limited to a fixed number of years or a fixed volume of output. Analysis by OXERA was published alongside the statutory consultation document to support that conclusion.

Why is it being proposed and what are the benefits?

16.3 The change is being proposed because the Scottish Executive considers that the majority of future landfill gas projects will not need the full and permanent support of the Obligation to be economically viable in today's energy market. This conclusion has been supported by independent analysis from Enviro and OXERA which was published as part of the preliminary consultation document. By reducing the support that the Obligation provides to future landfill gas projects, the Scottish Executive can seek to ensure that the potential for excess subsidy is reduced over time and that the support to renewable energy provided by electricity consumers via the Obligation is targeted most effectively at those projects which need it.

16.4 The mechanism proposed for reducing support for landfill gas may over time be applied to other low cost renewable technologies (such as onshore wind). An approach of this kind has the potential to reduce the need to raise the level of the Obligation in the future and thus contain the costs to electricity consumers of supporting the development of renewable energy.

What are the costs?

16.5 There are no additional costs to electricity consumers arising from the proposal – indeed as noted above the approach adopted should help to contain the costs of the Obligation to consumers over time.

16.6 There is some risk that, by reducing support for more economic renewable technologies such as landfill gas, there will be a reduction in the confidence of the renewables industry to develop new projects. The Scottish Executive has sought to mitigate and remove this risk as far as practically possible through a) seeking to ensure that future support levels remain sufficient to allow sound projects to be developed and b) adopting a “grandfathering” approach which means that SROC eligibility rights are preserved at the time that investments are made.

Why is the proposal not being introduced in the 2006 Order?

16.7 Although most respondents to the consultation expressed their preference that support for landfill gas should not be tapered, no convincing evidence was presented to show that future landfill gas projects would be uneconomic without the full support of the ROS. We therefore remain committed to reducing support for future landfill gas projects from 1 April 2009.

16.8 Respondents were almost evenly split as to whether to taper support by output or time, with a number of practical issues raised in relation to both. Given the difference of views, we plan to hold further discussions on the precise mechanism for tapering over the coming year, with final decisions and implementation into legislation in 2007.

What are the alternative options?

16.9 ***Do Nothing.*** This option would mean that future landfill gas projects continued to benefit from the full support of the Obligation. This option would have the benefit of simplicity and retaining the full confidence of investors and developers active in the area of landfill gas. However it would not address the issues of potential over-subsidy through the Obligation and the potential benefits to consumers from targeting support more effectively over time.

16.10 ***Identify a different mechanism for reducing support for more economic renewable technologies within the Obligation.*** The ROS review preliminary and statutory consultation process did not bring forward clear and worked up alternatives to the mechanism proposed.

b) Administrative arrangements for smaller generators

What are the proposals?

16.11 The Scottish Executive proposes to introduce measures that will make it easier for small and micro-generators to benefit from the Obligation (in this context small generators are those with a declared net capacity of 50 kW or less). Two changes are proposed:

- a) allowing agents to act on behalf of smaller generators in seeking accreditation and claiming SROCs, and allowing SROCs to be issued to agents; and allowing agents to amalgamate the output of smaller generators
- b) removing the requirement for a sale and buyback agreement which small generators are required to have with a supplier in order to claim SROCs.

Why is it being proposed and what are the benefits?

16.12 The changes which allow agents to act on behalf of generators should reduce administrative burdens on small and micro-generators – and provide them with the option of an easier route to obtaining the benefits of SROC eligibility. The proposals also have the potential to reduce administrative burdens on Ofgem over time. The removal of sale and buyback agreements would also remove an administrative burden. There is also evidence that small generators find it difficult to obtain these agreements. Almost all respondents to the statutory consultation agreed that the sale and buyback requirement should be removed for small generators and all respondents who commented on the proposals in relation to agents supported the proposed change.

What are the costs?

16.13 The consultation process has not indicated that there are any costs associated with the introduction of this proposal. Moreover trade associations and smaller generators consider that the proposals have the potential to reduce costs and administrative burdens for smaller generators.

Why is this proposal not being taken forward in the 2006 Order?

16.14 Before these proposals can be implemented primary legislation is required which would then allow the appropriate amendments to be made to the ROS Order. It is intended that the primary legislation be taken forward through amendments to the Climate Change and Sustainable Energy Private Members Bill before the UK Parliament, and that these would give the Scottish Executive broad powers to make such changes in these areas in the future, through further amendments to the ROS. Subject to the passage of the Bill through Parliament we intend to introduce these changes from 1 April 2007. We will consult on the details of the changes later in 2006.

What are the alternatives?

16.15 ***Do nothing:*** the benefits in terms of reduced administrative burdens and encouraging small generators will not be achieved with this option.

17. SUMMARY AND CONCLUSION

17.1 The changes contained in the ROS 2006 represent relatively limited amendments to the Obligation. This is consistent with the Scottish Executive commitment, as set out in the terms of reference for the review, to keep changes to a minimum.

17.2 The major regulatory impact of the Obligation arises from the increased costs it imposes on electricity consumers – in return for stimulation of the development of renewable energy sources for power generation. There are no changes arising from the review to increase those costs at this stage. The Scottish Executive considers that these relatively limited changes will have benefits in terms of increasing renewable generation from biomass and wastes, improving the cost effectiveness of the Obligation over time and improving and simplifying some of the administrative processes relating to the Obligation. The Renewable Energy Association has confirmed that whilst the beneficial impact is hard to quantify, the proposed amendments to the administration of the Obligation have the broad support of the industry and should help to improve the operation of the scheme for participating companies.

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