
STATUTORY INSTRUMENTS

1997 No. 248

**The Electricity (Non-Fossil Fuel Sources)
(England and Wales) Order 1997**

Interpretation

2.—(1) In this Order—

“the Act” means the Electricity Act 1989;

“commissioning process” means the process consisting of such procedures and tests as from time to time constitute usual industry standards and practices for commissioning a non-fossil fuel generating station of any description specified in Schedule 1 in order—

- (a) to demonstrate that such a non-fossil fuel generating station is—
 - (i) capable of commercial operation; or
 - (ii) in the case of a non-fossil fuel generating station which is the subject of relevant arrangements, capable of commercial operation for the purpose of such arrangements;
- (b) to establish the external physical conditions outside the control of the operator which are necessary for the operation of such station or which control the amount of electricity produced by the station; and
- (c) to establish the operating parameters within which such station can be operated in accordance with practices, methods and procedures which are or should be adopted by a person exercising that degree of judgment, skill, diligence and foresight which would ordinarily and reasonably be expected from a skilled and experienced operator engaged in the business of operating such a station lawfully;

“connected person”, in relation to any person, means a person connected to him within the meaning of section 839 of the Income and Corporation Taxes Act 1988⁽¹⁾;

“dry-weight basis” means the basis for calculating the weight of each fuel component by deducting from its weight the weight of any water in that fuel component that would be removed by heating it to a temperature of 120°C for a period of not less than 30 minutes;

“energy content” of a fuel means the gross calorific value of that fuel (as expressed by weight or by volume) multiplied by the weight or volume of that fuel;

“generating set” means a prime mover and alternator;

“industrial waste” includes sawmill waste derived from sawmills located on permanent sites and food-processing waste;

“operator” means an operator of any relevant non-fossil fuel generating station;

“the pooling and settlement agreement” means the pooling and settlement agreement to which an operator may be required to become a party by a licence granted to him under section 6 of the Act;

“premium price” means a fixed price per kilowatt-hour (kWh) and for this purpose—

(1) 1988 c. 1; section 839 was amended by the Finance Act 1995, section 74 and Schedule 17, Part II, paragraph 20.

- (a) where the operator of a generating station is a party to the pooling and settlement agreement, an arrangement between that operator and a public electricity supplier or person on behalf of a public electricity supplier shall be treated as if it is an arrangement to purchase electricity at a fixed price per kilowatt-hour (kWh) if it provides for such payments to be made by either party to the other as shall ensure that the aggregate price receivable by that operator under the arrangement and the pooling and settlement agreement for electricity generated in specified periods is equal to a fixed amount specified in the said arrangement; and
- (b) any provision for adjustment of the price by reference to any measure of inflation shall be disregarded;

“premium price arrangement” means an arrangement made before the day on which this Order is made under which a public electricity supplier or a person on behalf of a public electricity supplier agrees to purchase electricity generated by a non-fossil fuel generating station at any time in the period commencing on 21st July 1993 and ending on 28th August 2013 (whether or not the agreement covers other periods) for a premium price;

“relevant arrangements” means arrangements evidence of the making of which is produced to the Director in accordance with article 3(1);

“relevant non-fossil fuel generating station” means a generating station of a description specified in Schedule 1 and falling within the description of non-fossil fuel generating station specified in article 3(2).

- (a) (2) (a) Where a definition in Schedule 1 refers to generating stations which are fuelled wholly by a particular non-fossil fuel or fuels, this includes generating stations which use fossil fuel for one or more of the following purposes—
 - (i) the ignition of gases of low or variable calorific value;
 - (ii) the heating of the combustion system to its normal operating temperature or the maintenance of that temperature;
 - (iii) emission control;

provided that, in any period shown in Tables A to H in Schedule 1, the energy content of the fossil fuel used in the generating station does not exceed 10 per cent. of the energy content of all the fuel used.

- (b) Where a definition in Schedule 1 refers to generating stations which are fuelled partly by a particular non-fossil fuel or fuels, this includes dual-fired projects and for this purpose “dual-fired projects” means ones where the balance of fuel is—
 - (i) fossil fuel;
 - (ii) non-fossil fuel which is neither expressly included in that definition nor expressly excluded by that definition; or
 - (iii) a combination of the fuel mentioned in sub-paragraphs (i) and (ii) above.