
EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 32 of the Electricity Act 1989 and imposes an obligation (“the renewables obligation”) on all electricity suppliers, which are licensed under that Act and which supply electricity in England and Wales, to supply to customers in Great Britain specified amounts of electricity generated by using renewable sources. As alternatives, in respect of all or part of an electricity supplier’s renewables obligation, an electricity supplier is permitted to provide evidence that other licensed electricity suppliers have supplied electricity generated using renewable sources instead of it or to make a payment to the Gas and Electricity Markets Authority (“the Authority”). Renewable sources include sources of energy such as wind, water, solar and biomass.

The Order revokes and replaces, with amendment, the Renewables Obligation Order 2002 (“the 2002 Order”). The Order also revokes the Renewables Obligation (Amendment) Order 2004 (“the 2004 Order”). The provisions of this Order are similar to the 2002 Order (as amended by the 2004 Order); however new provisions have been added relating to the recognition of NIROCs and the allocation of ROCs in respect of electricity generated in Great Britain but supplied to customers in Northern Ireland.

The new provisions of the Order also introduce a surcharge on late payments received by the Authority and a procedure known as mutualisation. This is a requirement for certain electricity suppliers to make payments to the Authority where, following a supplier’s default on its renewables obligation, there is less in the buy-out fund as established by article 15 of this Order, than there is expected to be (“a shortfall”).

Article 3 imposes the renewables obligation on electricity suppliers. The renewables obligation requires the electricity supplier to produce evidence of the supply of electricity generated from renewable sources to the Authority. The evidence required is certificates issued by the Authority. Those certificates issued under this Order are referred to as “ROCs”.

Article 4 and Schedule 2 provide for the issue of ROCs by the Authority and the maintenance by it of a register of ROCs.

Article 5 provides for the revocation of ROCs in specified circumstances.

Article 6 and Schedule 1 provide for how the amount of an electricity supplier’s renewables obligation is to be determined.

Article 7 provides that, instead of producing certificates to the Authority, an electricity supplier may discharge (in whole or part) its renewables obligation by making a payment to the Authority.

Article 8 provides for suppliers to discharge their renewables obligation by tendering eligible NIROCs to the Authority. Schedule 3 sets out the conditions governing NIROC eligibility.

Article 9 provides for an electricity supplier to discharge its renewables obligation by producing to the Authority certificates certifying the matters in section 32B(2A) of the Act rather than section 32B(2).

Articles 10, 11 and 12 determine what types of electricity generated from renewable sources are eligible to satisfy an electricity supplier’s renewables obligation.

Article 14 provides for the Authority to obtain information to enable it to carry out its functions under the Order.

Article 15 provides how payments made to the Authority by electricity suppliers under article 7 are to be divided amongst those electricity suppliers subject to the renewables obligation.

Status: This is the original version (as it was originally made).

Article 16 provides for the exchange of information between the Authority and the Northern Ireland Authority relating to NIROCs produced to the Authority under article 8 and ROCs produced to the Northern Ireland Authority under NIRO orders.

Article 17 provides for an electricity supplier to be treated as having discharged its renewables obligation by making a late payment in accordance with that article. The late payment must be made during a specified period and is subject to a surcharge which rises on a daily basis. If a supplier only makes a partial late payment the remaining part of its renewables obligation not covered by the partial late payment, remains outstanding and the supplier is still in default of its renewables obligation.

Article 18 provides for mutualisation and sets out the details of how the process will work; such as how a shortfall in the buy-out fund will be calculated and which shortfalls are recoverable via mutualisation. Specifically, where the shortfall is less than the sum set out in Schedule 4 for that obligation period, mutualisation is not triggered; when the shortfall is equal to or greater than the sum set out in Schedule 4 and does not exceed £200,000,000, the whole shortfall is recovered via mutualisation; and when the shortfall is over £200,000,000, only the first £200,000,000 of the shortfall is recovered.

The payments required by electricity suppliers in accordance with the article 18 are made in quarterly instalments. For example, for a shortfall in the obligation period 2005/2006 the instalments are required before the following dates: 1st September 2007, 1st December 2007, 1st March 2008 and 1st June 2008.

Article 19 makes provision relating to the functions of the Authority under the Order.

Article 20 revokes the 2002 Order and the 2004 Order, but also provides for savings provisions in respect of the obligations of each electricity supplier to produce evidence and other information in respect of the renewables obligation, or to make payments to the Authority, and to furnish information to the DTI, in respect of periods prior to the coming into force of the Order.

A regulatory impact assessment is available and can be obtained from the Energy Resources and Development Unit, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET. Copies have been placed in the libraries of both Houses of Parliament.

This Order re-enacts provisions of the 2002 Order which gave effect to article 3.1 of the European Directive on the promotion of electricity produced from renewables energy sources in the internal market (Directive [2001/77/EC](#)) [O.J. No. L283/33 27.10.2001]. A transposition note setting out how the main elements of this Directive would be transposed into United Kingdom law is available from the Energy Resources and Development Unit at the Department of Trade and Industry at the above address. Copies have been placed in the libraries of both Houses of Parliament.