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## 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 amendments, the Renewables Obligation Order 2005 (“the 2005 Order”). The structure of the Order is different from the structure of the 2005 Order and some of the longer and more complex provisions of the 2005 Order have been split out into several separate articles in this Order.

In content the provisions of this Order are similar to those of the 2005 Order; however new provisions have been added relating to the calculation of eligibility for renewable obligation certificates issued under this Order (“ROCs”) of electricity generated by combined heat and power generating stations which are fuelled wholly or partly by waste (see articles 7(1)(c) and 9(6)).

The new provisions of the Order also modify the existing provisions relating to the procedure to be followed by the Authority in issuing ROCs, with the aim of introducing additional flexibility in that procedure (see article 18(3) to (6)). This is achieved by allowing the Authority discretion in deciding whether to accept revisions to the figures used in calculating the number of ROCs which the station is entitled to, where such revisions are made after the deadline set in the Order.

Provisions have also been inserted into the Order detailing a preliminary accreditation procedure (see article 31). An application for preliminary accreditation is made to the Authority by a person proposing to operate or construct a generating station before the station has been commissioned. The Authority may grant preliminary accreditation if the proposed generating station would be capable of generating electricity from eligible renewable sources (as defined in article 5 of the Order). The Order sets out the circumstances in which the Authority may refuse to grant accreditation once preliminary accreditation has been granted.

Article 2 contains the interpretation provisions for the Order.

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”. Alternatively certificates issued under the corresponding order made by the Scottish Ministers, in exercise of the executive devolved functions under section 32 of the Electricity Act 1989, may be produced as evidence of compliance with a supplier’s renewables obligation.

Article 4 and Schedule 1 provide for how the amount of an electricity supplier’s renewables obligation is to be determined.

Articles 5, to 9 and 14 determine what types of electricity generated from renewable sources are eligible to satisfy an electricity supplier’s renewables obligation.

Article 10 relates to arrangements whereby electricity generated by a generating station is sold to an electricity supplier and then purchased back by the operator of the generating station.

**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Renewables Obligation Order 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 11 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 12 provides for suppliers to discharge their renewables obligation by tendering eligible certificates, issued under the Northern Ireland Renewables Obligation orders (“NIROCs”) to the Authority. Schedule 3 sets out the conditions governing NIROC eligibility.

Article 13 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 15 to 19 and Schedule 2 provide for the issue of ROCs by the Authority and the maintenance by it of a register of ROCs.

Article 20 provides for the revocation of ROCs in specified circumstances.

Article 21 contains special arrangements enabling generating stations with a declared net capacity of 50 kilowatts or less to be able to claim ROCs on an annual rather than monthly basis.

Article 22 provides how payments made to the Authority by electricity suppliers under article 11 are to be divided amongst those electricity suppliers subject to the renewables obligation.

Article 23 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.

Articles 24 to 27 provide for mutualisation and set 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 mutualisation provisions are made in quarterly instalments. For example, for a shortfall in the obligation period 2006/2007 the instalments are required before the following dates: 1st September 2008, 1st December 2008, 1st March 2009 and 1st June 2009.

Article 28 provides for the Authority to obtain information to enable it to carry out its functions under the Order.

Article 29 provides for the exchange of information between the Authority and the Northern Ireland Authority relating to NIROCs produced to the Authority under article 9 and ROCs produced to the Northern Ireland Authority under Northern Ireland Renewables Obligation orders.

Article 30 makes provision relating to the functions of the Authority under the Order.

Article 31 provides for the preliminary accreditation and accreditation of generating stations. In order to be eligible to claim ROCs in respect of electricity generated from eligible renewable sources, a generating station must have obtained accreditation from the Authority.

Article 32 revokes the 2005 Order, and 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 this 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.

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This Order re-enacts provisions of the 2005 Order which gave effect to article 3.1 of the European Directive on the promotion of electricity produced from renewable 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.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Sch. 2 para. 3(b) word inserted by [S.I. 2007/1078 art. 25\(3\)\(b\)](#)
- Sch. 2 para. 3(b) word substituted by [S.I. 2007/1078 art. 25\(3\)\(a\)](#)
- Sch. 2 para. 2(b)(ii) words inserted by [S.I. 2007/1078 art. 25\(2\)\(a\)](#)
- Sch. 2 para. 2(b)(iii) words inserted by [S.I. 2007/1078 art. 25\(2\)\(b\)\(ii\)](#)
- Sch. 2 para. 3(b) words inserted by [S.I. 2007/1078 art. 25\(3\)\(c\)](#)
- Sch. 2 para. 8 words inserted by [S.I. 2007/1078 art. 25\(5\)](#)
- Sch. 2 para. 2(b)(iii) words omitted by [S.I. 2007/1078 art. 25\(2\)\(b\)\(iii\)](#)
- Sch. 2 para. 2(b)(iii) words substituted by [S.I. 2007/1078 art. 25\(2\)\(b\)\(i\)](#)
- Sch. 2 para. 5(b) words substituted by [S.I. 2007/1078 art. 25\(4\)](#)
- Sch. 3 para. 910 omitted by [S.I. 2007/1078 art. 26](#)
- art. 2(1) words inserted by [S.I. 2007/1078 art. 3\(2\)\(b\)](#)
- art. 2(1) words substituted by [S.I. 2007/1078 art. 3\(2\)\(a\)](#)
- art. 3(1) word inserted by [S.I. 2007/1078 art. 4\(2\)](#)
- art. 3(2) words inserted by [S.I. 2007/1078 art. 4\(3\)\(a\)](#)
- art. 3(2) words inserted by [S.I. 2007/1078 art. 4\(3\)\(b\)](#)
- art. 7(3)(4) omitted by [S.I. 2007/1078 art. 5](#)
- art. 9(5) words inserted by [S.I. 2007/1078 art. 6](#)
- art. 10 omitted by [S.I. 2007/1078 art. 7](#)
- art. 11(2) words substituted by [S.I. 2007/1078 art. 8](#)
- art. 13(1) words inserted by [S.I. 2007/1078 art. 9](#)
- art. 14(2) words substituted by [S.I. 2007/1078 art. 11\(2\)](#)
- art. 15(1) words omitted by [S.I. 2007/1078 art. 12\(2\)\(b\)](#)
- art. 15(1) words substituted by [S.I. 2007/1078 art. 12\(2\)\(a\)](#)
- art. 15(2) words inserted by [S.I. 2007/1078 art. 12\(3\)](#)
- art. 16(2) word inserted by [S.I. 2007/1078 art. 14\(2\)\(a\)](#)
- art. 16(2) words inserted by [S.I. 2007/1078 art. 14\(2\)\(b\)](#)
- art. 16(4) words inserted by [S.I. 2007/1078 art. 14\(3\)\(a\)](#)
- art. 16(4)(a) words inserted by [S.I. 2007/1078 art. 14\(3\)\(b\)\(ii\)](#)
- art. 16(4)(a) words inserted by [S.I. 2007/1078 art. 14\(3\)\(b\)\(iii\)](#)
- art. 16(4)(a) words substituted by [S.I. 2007/1078 art. 14\(3\)\(b\)\(i\)](#)
- art. 16(4)(b) omitted by [S.I. 2007/1078 art. 14\(3\)\(c\)](#)
- art. 16(4)(c) words substituted by [S.I. 2007/1078 art. 14\(3\)\(d\)](#)
- art. 16(7) words inserted by [S.I. 2007/1078 art. 14\(4\)](#)
- art. 16(8) words inserted by [S.I. 2007/1078 art. 14\(4\)](#)
- art. 16(9) substituted by [S.I. 2007/1078 art. 14\(6\)](#)
- art. 16(10) word substituted by [S.I. 2007/1078 art. 14\(8\)](#)
- art. 17(2)(b) words inserted by [S.I. 2007/1078 art. 15\(2\)\(a\)](#)
- art. 17(2)(b) words inserted by [S.I. 2007/1078 art. 15\(2\)\(b\)](#)
- art. 17(3)(a) words inserted by [S.I. 2007/1078 art. 15\(3\)\(a\)\(i\)](#)
- art. 17(3)(a) words inserted by [S.I. 2007/1078 art. 15\(3\)\(a\)\(ii\)](#)
- art. 17(3)(b) words inserted by [S.I. 2007/1078 art. 15\(3\)\(b\)\(i\)](#)
- art. 17(3)(b) words inserted by [S.I. 2007/1078 art. 15\(3\)\(b\)\(ii\)](#)
- art. 17(3)(c) words substituted by [S.I. 2007/1078 art. 15\(3\)\(c\)](#)
- art. 17(4) words substituted by [S.I. 2007/1078 art. 15\(4\)](#)
- art. 18(1) words inserted by [S.I. 2007/1078 art. 17\(2\)\(a\)](#)
- art. 18(1)(b) words inserted by [S.I. 2007/1078 art. 17\(2\)\(b\)](#)
- art. 18(2)(c) words inserted by [S.I. 2007/1078 art. 17\(3\)\(a\)](#)
- art. 18(2)(e) words inserted by [S.I. 2007/1078 art. 17\(3\)\(b\)\(ii\)](#)
- art. 18(2)(e) words substituted by [S.I. 2007/1078 art. 17\(3\)\(b\)\(i\)](#)
- art. 19(4)(a) words substituted by [S.I. 2007/1078 art. 18](#)

- art. 20(1)(a) words inserted by S.I. 2007/1078 art. 19(2)(a)
- art. 20(1)(b) words inserted by S.I. 2007/1078 art. 19(2)(b)(i)
- art. 20(1)(b) words inserted by S.I. 2007/1078 art. 19(2)(b)(ii)
- art. 20(3)(a) words omitted by S.I. 2007/1078 art. 19(3)
- art. 20(4)(b) words inserted by S.I. 2007/1078 art. 19(4)(b)
- art. 20(4)(b) words inserted by S.I. 2007/1078 art. 19(4)(d)
- art. 20(4)(b) words substituted by S.I. 2007/1078 art. 19(4)(a)
- art. 20(4)(b) words substituted by S.I. 2007/1078 art. 19(4)(c)
- art. 20(5) words inserted by S.I. 2007/1078 art. 19(6)
- art. 21(2) words inserted by S.I. 2007/1078 art. 20(2)(a)
- art. 21(2) words substituted by S.I. 2007/1078 art. 20(2)(c)
- art. 21(2) words substituted by S.I. 2007/1078 art. 20(2)(d)
- art. 21(2)(a) substituted by S.I. 2007/1078 art. 20(2)(b)
- art. 21(3) words inserted by S.I. 2007/1078 art. 20(3)(a)
- art. 21(3) words substituted by S.I. 2007/1078 art. 20(3)(b)
- art. 21(5) words inserted by S.I. 2007/1078 art. 20(4)(a)
- art. 21(5) words substituted by S.I. 2007/1078 art. 20(4)(b)
- art. 21(6) words inserted by S.I. 2007/1078 art. 20(5)
- art. 29(3) words inserted by S.I. 2007/1078 art. 22
- art. 30(f)(i) words substituted by S.I. 2007/1078 art. 23(2)
- art. 30(f)(iii) word inserted by S.I. 2007/1078 art. 23(3)(a)
- art. 30(f)(iii) words inserted by S.I. 2007/1078 art. 23(3)(b)
- art. 30(f)(iv) word inserted by S.I. 2007/1078 art. 23(4)
- art. 30(g)(iii) words inserted by S.I. 2007/1078 art. 23(5)
- art. 31(3) words inserted by S.I. 2007/1078 art. 24

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- art. 2(1A)(1B) inserted by S.I. 2007/1078 art. 3(3)
- art. 13A inserted by S.I. 2007/1078 art. 10
- art. 14(2A) inserted by S.I. 2007/1078 art. 11(3)
- art. 15A inserted by S.I. 2007/1078 art. 13
- art. 16(8A)(8B) inserted by S.I. 2007/1078 art. 14(5)
- art. 16(9A) inserted by S.I. 2007/1078 art. 14(7)
- art. 17A-17B inserted by S.I. 2007/1078 art. 16
- art. 20(4A) inserted by S.I. 2007/1078 art. 19(5)
- art. 20(6) inserted by S.I. 2007/1078 art. 19(7)
- art. 21(7) inserted by S.I. 2007/1078 art. 20(6)
- art. 28(3) inserted by S.I. 2007/1078 art. 21(2)