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*Status: Point in time view as at 01/01/2017.*

*Changes to legislation: There are currently no known outstanding effects for the The Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration Regulations 2007. (See end of Document for details)*

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## STATUTORY INSTRUMENTS

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# 2007 No. 292

## ENERGY CONSERVATION

### The Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration Regulations 2007

<i>Made</i>	- - - -	<i>5th February 2007</i>
<i>Laid before Parliament</i>		<i>7th February 2007</i>
<i>Coming into force</i>	- -	<i>28th February 2007</i>

The Secretary of State is a Minister designated <sup>M1</sup> for the purposes of section 2(2) of the European Communities Act 1972 <sup>M2</sup> in relation to matters relating to the generation of combined heat and power.

In accordance with section 56 of the Finance Act 1973 <sup>M3</sup>, the Treasury consent to the making of these Regulations.

The Secretary of State makes these Regulations in exercise of the powers conferred upon him by section 2(2) of the European Communities Act 1972 and by section 56 of the Finance Act 1973:

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#### Marginal Citations

**M1** [S.I. 2005/2766](#).

**M2** 1972 c. 68. The power of the Minister to make regulations in relation to matters in or as regards Scotland is preserved by section 57(1) of the [Scotland Act 1998 \(c.46\)](#).

**M3** 1973 c.51.

#### Citation, commencement and extent

1.—(1) These Regulations may be cited as the Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration Regulations 2007 and come into force on 28th February 2007.

(2) These Regulations extend to England and Wales and Scotland.

#### Interpretation

2.—(1) In these Regulations—

“<sup>F1</sup>the Energy Efficiency Directive” means Directive 2012/27/EU of the European Parliament and of the Council of 25th October 2012 on energy efficiency, amending Directives [2009/125/EC](#) and [2010/30/EU](#) and repealing Directives [2004/8/EC](#) and [2006/32/EC](#), and any

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reference to Annexes II and X to the Directive is to be construed as a reference to those Annexes as amended from time to time;]

“the competent authority” is the [<sup>F2</sup>Secretary of State for Business, Energy and Industrial Strategy];

“Great Britain” includes—

- (a) the territorial sea of the United Kingdom which is adjacent to Great Britain; and
- (b) any area designated under the Continental Shelf Act 1964 <sup>M4</sup>;

(2) In these Regulations—

“CHPGO” means a guarantee of origin of electricity produced from high-efficiency cogeneration <sup>M5</sup>;

“the CHPGO holder” means the person to whom the CHPGO is issued or transferred;

“guarantee of origin” means, except in relation to paragraphs (3) to (5) of regulation 10, a certificate issued by the competent authority certifying that the electricity in respect of which the certificate is issued is electricity produced from high-efficiency cogeneration;

“high-efficiency cogeneration” means cogeneration of electricity that meets the criteria of [<sup>F3</sup>Annex II to the Energy Efficiency Directive].

(3) Expressions used in these Regulations which are also used in the [<sup>F4</sup>Energy Efficiency Directive] have the meaning they bear in that Directive.

#### Textual Amendments

- F1** Words in reg. 2(1) substituted (26.6.2014) by [The Energy Efficiency \(Encouragement, Assessment and Information\) Regulations 2014 \(S.I. 2014/1403\)](#), regs. 1(1), **5(2)(a)**
- F2** Words in reg. 2(1) substituted (9.11.2016) by [The Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions \(Education and Skills\) Order 2016 \(S.I. 2016/992\)](#), art. 1(2), **Sch. para. 35(a)** (with art. 13)
- F3** Words in reg. 2(2) substituted (26.6.2014) by [The Energy Efficiency \(Encouragement, Assessment and Information\) Regulations 2014 \(S.I. 2014/1403\)](#), regs. 1(1), **5(2)(b)**
- F4** Words in reg. 2(3) substituted (26.6.2014) by [The Energy Efficiency \(Encouragement, Assessment and Information\) Regulations 2014 \(S.I. 2014/1403\)](#), regs. 1(1), **5(2)(c)**

#### Marginal Citations

- M4** 1964 c.29.
- M5** Cogeneration is commonly referred to in the United Kingdom as combined heat and power or CHP.

### Issue of CHPGOs and designation of the competent authority

3.—(1) CHPGOs shall be issued by the competent authority in accordance with these Regulations.

(2) The [<sup>F5</sup>Secretary of State for Business, Energy and Industrial Strategy] is designated as the competent authority [<sup>F6</sup>to supervise the issuing of CHPGOs in accordance with Article 14(10) of and Annex X to the Energy Efficiency Directive].

### Textual Amendments

- F5** Words in [reg. 3\(2\)](#) substituted (9.11.2016) by [The Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions \(Education and Skills\) Order 2016 \(S.I. 2016/992\)](#), art. 1(2), **Sch. para. 35(b)** (with art. 13)
- F6** Words in [reg. 3\(2\)](#) substituted (26.6.2014) by [The Energy Efficiency \(Encouragement, Assessment and Information\) Regulations 2014 \(S.I. 2014/1403\)](#), regs. 1(1), **5(3)**

### Request to issue CHPGOs

- 4.—(1) A producer of electricity may request a CHPGO from the competent authority.
- (2) No request may be made for a CHPGO where the electricity is produced outside Great Britain.
- (3) A request shall not be considered duly made until the competent authority is provided with—
- (a) all the information in Schedule 1;
  - (b) the statement required under paragraph (4); and
  - (c) any charge payable under regulation 9.
- (4) The person making the request shall provide a statement that in respect of the electricity which is the subject of the request—
- (a) he is entitled to the issue of a CHPGO under these Regulations; and
  - (b) he has not made and does not intend to make a request for the issue of a CHPGO to any person outside Great Britain.

### Issue and content of CHPGOs

- 5.—(1) Where the competent authority—
- (a) receives a request made in accordance with regulation 4; and
  - (b) is satisfied that the electricity to which the request relates is produced from high-efficiency cogeneration,
- the authority shall issue a CHPGO in respect of that electricity.
- (2) A CHPGO shall be issued to the person making the request or such other person as that person may request.
- [<sup>F7</sup>(2A) A CHPGO—
- (a) shall be issued by reference to a standard size of 1 MWh; and
  - (b) shall relate to the net electricity output measured at the station boundary and exported to the grid.]

(3) A CHPGO—

    - (a) shall contain the [<sup>F8</sup>information required by paragraph (b) of Annex X to the Energy Efficiency Directive]; and
    - (b) may contain such other matters as the competent authority considers appropriate.

(4) Where a CHPGO has been issued but not revoked, no further CHPGO in respect of the electricity to which the CHPGO relates shall be issued by the competent authority.

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### Textual Amendments

- F7** Reg. 5(2A) inserted (26.6.2014) by The Energy Efficiency (Encouragement, Assessment and Information) Regulations 2014 (S.I. 2014/1403), regs. 1(1), **5(4)(a)**
- F8** Words in reg. 5(3) substituted (26.6.2014) by The Energy Efficiency (Encouragement, Assessment and Information) Regulations 2014 (S.I. 2014/1403), regs. 1(1), **5(4)(b)**

### Replacement CHPGOs

6.—(1) The CHPGO holder may request the competent authority to issue a replacement CHPGO if—

- (a) the CHPGO holder believes that the CHPGO is inaccurate; and
  - (b) the request is made in writing to the competent authority within 21 days of the issue of the CHPGO.
- (2) A request shall—
- (a) state the particulars of the CHPGO that the CHPGO holder believes are inaccurate; and
  - (b) provide all necessary information in support of that request.
- (3) The competent authority shall acknowledge to the CHPGO holder the receipt of the request within seven days of receipt.
- (4) The competent authority shall, on the basis of the information provided in the request—
- (a) decide whether or not to revoke the CHPGO and to issue a replacement CHPGO; and
  - (b) make that decision within 40 days of the receipt of the request.
- (5) The 40-day period may be extended if so agreed by the CHPGO holder and the competent authority.
- (6) If the competent authority decides—
- (a) to revoke the CHPGO, it shall give written notice under regulation 8(2);
  - (b) not to revoke the CHPGO, it shall as soon as possible give written notice to the CHPGO holder, with reasons for that decision;
  - (c) to issue a replacement CHPGO, it shall do so as soon as possible.

### Transfer of CHPGOs

7.—(1) If a CHPGO holder no longer operates the plant to which the CHPGO relates, he may request the competent authority to transfer the CHPGO to the person who does operate that plant.

- (2) If the competent authority receives—
- (a) a written request for a transfer referred to in paragraph (1);
  - (b) satisfactory evidence of the matters referred to in that paragraph; and
  - (c) any charge payable under regulation 9,
- it shall effect the transfer of the CHPGO.

### Revocation of CHPGOs

- 8.—(1) The competent authority shall revoke a CHPGO where—
- (a) it decides the CHPGO is inaccurate;

- (b) it is satisfied that the information provided under regulation 4 is incorrect in a material particular; or
  - (c) it is otherwise satisfied that the CHPGO should not have been issued, is inaccurate or was issued to the wrong person.
- (2) Where the competent authority revokes a CHPGO, it shall as soon as possible give written notice to the CHPGO holder.
- (3) A CHPGO that is revoked—
- (a) under sub-paragraph (1)(a), shall be treated as if it had not been issued;
  - (b) under sub-paragraphs (1)(b) or (c), shall cease to have effect from the date that notice is given under paragraph (2).

### Charging

- 9.—(1) The competent authority may require the payment of a charge from—
- (a) a producer of electricity who requests a CHPGO under regulation 4; or
  - (b) a CHPGO holder who requests a transfer of a CHPGO under regulation 7.
- (2) A charge payable under paragraph (1) shall not exceed the costs of the competent authority in complying with the request.
- (3) The competent authority shall not be required to issue or transfer a CHPGO until the charge is paid.

### Recognition of CHPGOs

- 10.—(1) A public authority shall recognise a CHPGO issued by the competent authority as proof of the matters referred to in [<sup>F9</sup>Annex X to the Energy Efficiency Directive].
- (2) For the purposes of this regulation a public authority means any Minister, government department, public body of any description or any person holding public office.
- (3) Subject to paragraph (4), a public authority shall recognise, as proof of the [<sup>F10</sup>information referred to in paragraph (b) of Annex X to the Energy Efficiency Directive], a CHPGO which has been issued outside Great Britain in accordance with [<sup>F11</sup>Article 14(10) of the Energy Efficiency Directive].
- (4) A public authority is not required to recognise, to the extent referred to in paragraph (3), a CHPGO issued outside Great Britain if—
- (a) it has been requested to refuse or withdraw such recognition by the authority which issued or supervised the issue of the CHPGO; or
  - (b) on the basis of objective, transparent and non-discriminatory criteria, it is satisfied that the CHPGO should not have been issued or that refusal of recognition is necessary for the prevention of fraud.
- (5) Where a public authority has refused to recognise a CHPGO issued in another Member State, it shall recognise that CHPGO where the Commission of the European Communities requires such recognition under [<sup>F12</sup>Article 14(10) of the Energy Efficiency Directive].
- (6) Nothing in this regulation shall require a public authority to satisfy itself that a CHPGO issued outside Great Britain has been properly issued.

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**Textual Amendments**

- F9** Words in [reg. 10\(1\)](#) substituted (26.6.2014) by [The Energy Efficiency \(Encouragement, Assessment and Information\) Regulations 2014 \(S.I. 2014/1403\)](#), regs. 1(1), **5(5)(a)**
- F10** Words in [reg. 10\(3\)](#) substituted (26.6.2014) by [The Energy Efficiency \(Encouragement, Assessment and Information\) Regulations 2014 \(S.I. 2014/1403\)](#), regs. 1(1), **5(5)(b)(i)**
- F11** Words in [reg. 10\(3\)](#) substituted (26.6.2014) by [The Energy Efficiency \(Encouragement, Assessment and Information\) Regulations 2014 \(S.I. 2014/1403\)](#), regs. 1(1), **5(5)(b)(ii)**
- F12** Words in [reg. 10\(5\)](#) substituted (26.6.2014) by [The Energy Efficiency \(Encouragement, Assessment and Information\) Regulations 2014 \(S.I. 2014/1403\)](#), regs. 1(1), **5(5)(c)**

Department for Environment, Food and Rural  
Affairs

*Ian Pearson*  
Minister of State

*Claire Ward*  
*Dave Watts*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

SCHEDULE 1

Regulation 4(3)

Information to be supplied with a request for a CHPGO

1. The name and address (if a corporation or Scottish firm, the registered or principal office) and, if a company, the registered number, of the person requesting the issue of the CHPGO.
2. Where the person signing the statement required under regulation 4(4) is not the person making the request, the name and address of the person signing the statement.
3. Whether the person requesting the issue of the CHPGO is the producer of the electricity in respect of which the CHPGO is requested and, if not, the name and address (if a corporation or Scottish firm, the registered or principal office) and, if a company, the registered number, of the producer.
4. The beginning and end of the period covered by the request.
5. The place where the electricity in respect of which the CHPGO is requested was produced, and the name, if any, of the plant.
6. The quantity of electricity in respect of which the CHPGO is requested, together with the total quantity of electricity produced by the plant during the period covered by the request.
7. The information relating to the plant which a person would be required to provide if they requested a certificate in relation to that plant under the <sup>F13</sup>Combined Heat and Power Quality Assurance Standard, [<sup>F14</sup>Issue 6, October 2016]].

**Textual Amendments**

- F13** Words in Sch. 1 para. 7 substituted (26.6.2014) by [The Energy Efficiency \(Encouragement, Assessment and Information\) Regulations 2014 \(S.I. 2014/1403\)](#), regs. 1(1), **5(6)**
- F14** Words in Sch. 1 para. 7 substituted (1.1.2017) by [The Combined Heat and Power Quality Assurance Regulations 2016 \(S.I. 2016/1108\)](#), regs. 1(1), **9**

8. The primary fuel source from which the electricity was produced.
9. The heat to power ratio of the plant.
10. The amount of useful heat utilised during the period covered by the request.
11. Such further information as the competent authority may, in the particular circumstances of the case, reasonably require—
  - (a) for the purposes of ascertaining the accuracy of the information required to be provided under paragraphs 1 to 10; or
  - (b) to enable the competent authority to be satisfied that any electricity produced is from high-efficiency cogeneration.

<sup>F15</sup>SCHEDULE 2

Regulation 5(3)

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### Textual Amendments

**F15** Sch. 2 omitted (26.6.2014) by virtue of [The Energy Efficiency \(Encouragement, Assessment and Information\) Regulations 2014](#) (S.I. 2014/1403), regs. 1(1), **5(7)**

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Article 5 of Directive [2004/8/EC](#) (OJ L 52, 21.2.2004, p.50) of the European Parliament and of the Council on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive [92/42/EEC](#) (OJ L 167, 22.6.1992, p.17). That Article provides for the issue of guarantees of origin of electricity from high-efficiency cogeneration. The cogeneration of electricity is more commonly referred to in the United Kingdom as electricity produced from combined heat and power or CHP.

Regulation 3 provides that the Secretary of State for Environment, Food and Rural Affairs, as the competent authority, is the issuer of guarantees of origin of electricity produced from high-efficiency cogeneration.

Regulation 4 provides for the procedure that a producer of electricity must follow to obtain a guarantee. Schedule 1 sets out the information that a producer must provide to the competent authority. Paragraph 7 of that Schedule refers to the Combined Heat and Power Quality Assurance Standard, Issue 1, November 2000 published by the Department for Environment, Food and Rural Affairs. It may be obtained from [www.defra.gov.uk/environment/energy/chp/index.htm#quality](http://www.defra.gov.uk/environment/energy/chp/index.htm#quality) or The CHP Team, Sustainable Energy Policy, Energy Market Branch, Department for Environment, Food and Rural Affairs, Zone 3H20, Ashdown House, 123 Victoria Street, London SW1E 6DE.

Regulation 5 provides for the issue and content of a guarantee. Schedule 2 specifies the information to be included in a guarantee.

Regulation 6 sets out when a guarantee may be replaced.

Regulation 7 provides for the transfer of a guarantee.

Regulation 8 sets out when and how a guarantee may be revoked.

Regulation 9 provides that a charge may be made for the issue or transfer of a guarantee.

Regulation 10 provides for the recognition of guarantees, including those issued by competent authorities outside Great Britain.

A full Regulatory Impact Assessment of the effect that this instrument will have on the costs of business and the voluntary sector, and a transposition note, have been prepared and are available from The CHP Team at the above mentioned address. Copies have been placed in the library of each House of Parliament.



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