

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>

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SCHEDULE 1 — Information to be supplied with a request for a CHPGO

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The Secretary of State is a Minister designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to matters relating to the generation of combined heat and power.

In accordance with section 56 of the Finance Act 1973^(c), the Treasury consent to the making of these Regulations.

(a) S.I. 2005/2766.

(b) 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).

(c) 1973 c.51.

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:

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—

“the Cogeneration Directive” means Directive 2004/8/EC(a) 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(b);

“the competent authority” is the Secretary of State for Environment, Food and Rural Affairs;

“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(c);

(2) In these Regulations—

“CHPGO” means a guarantee of origin of electricity produced from high-efficiency cogeneration(d);

“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 Annex III of the Cogeneration Directive.

(3) Expressions used in these Regulations which are also used in the Cogeneration Directive have the meaning they bear in that Directive.

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 Secretary of State for Environment, Food and Rural Affairs is designated as the competent authority for the purposes of Article 5(2) of the Cogeneration Directive.

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

(a) OJ L 52, 21.2.2004, p.50.

(b) OJ L 167, 22.6.1992, p.17.

(c) 1964 c.29.

(d) Cogeneration is commonly referred to in the United Kingdom as combined heat and power or CHP.

(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.

(3) A CHPGO—

- (a) shall contain the matters set out in Schedule 2; 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.

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 Article 5(5) of the Cogeneration 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 matters referred to in paragraphs 4 to 9 of Schedule 2, a CHPGO which has been issued outside Great Britain in accordance with Article 5 of the Cogeneration 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 Article 5(6) of the Cogeneration 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.

15th January 2007

Ian Pearson
Minister of State
Department for Environment, Food and Rural Affairs

5th February 2007

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 Combined Heat and Power Quality Assurance Standard, Issue 1, November 2000, published by the Department for Environment, Food and Rural Affairs(a).
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

(a) Available from 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.

- (b) to enable the competent authority to be satisfied that any electricity produced is from high-efficiency cogeneration.

SCHEDULE 2

Regulation 5(3)

Information to be contained in 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 to whom the CHPGO has been, or was originally, issued.
2. The date of issue of the CHPGO.
3. An identifier.
4. The beginning and end of the period to which the CHPGO relates.
5. The place where the electricity to which the CHPGO relates was produced and the name, if any, of the plant.
6. The lower calorific value of the fuel source from which the electricity was produced.
7. The use of the heat generated together with the electricity produced during the period to which the CHPGO relates.
8. The quantity of electricity from high-efficiency cogeneration calculated in accordance with Annex II of the Cogeneration Directive.
9. The primary energy savings calculated in accordance with Annex III(b) of the Cogeneration Directive.
10. The primary fuel source from which the electricity was produced.
11. The quantity of fuel from which the electricity was produced.
12. The amount of heat utilised during the period to which the CHPGO relates.
13. The achieved power efficiency.
14. The achieved overall efficiency.
15. The total quantity of electricity generated over the period to which the CHPGO relates.

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 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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