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STATUTORY INSTRUMENTS

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**2015 No. 1947**

**The Renewables Obligation Order 2015**

**PART 6**

**Banding**

**Electricity generated by qualifying CHP stations**

**35.**—(1) This article applies to electricity (“relevant electricity”)—

- (a) which is generated by a qualifying CHP station in a way described in the first column of Part 5 of Schedule 5,
- (b) to which article 36 does not apply, and
- (c) which is generated by a generating station to which article 34 does not apply.

(2) Subject to paragraphs (3) to (6), the amount of electricity to be stated in each ROC issued in respect of relevant electricity is to be determined in accordance with article 33(3) to (7).

(3) Where relevant electricity is generated using pre-2013 capacity, the amount of electricity to be stated in each ROC is—

- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 5 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule; and
- (b) in respect of the remainder of that electricity, the amount of electricity in the third column of Part 5 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule.

[<sup>F1</sup>(3A) But paragraph (3) does not apply in the case of relevant electricity generated using pre-2013 capacity by a relevant qualifying CHP station unless a declaration has been made in accordance with paragraph (7) in respect of the pre-2013 capacity of the station.

(3B) In paragraph (3A), “relevant qualifying CHP station” means a qualifying CHP station that—

- (a) was accredited on or before 31st March 2013; and
- (b) became a qualifying CHP station for the first time on or after the date on which the Renewables Obligation (Amendment) Order 2018 comes into force.]

(4) Where a declaration has been made in accordance with paragraph (7) in respect of the 2013/15 capacity of a station, and relevant electricity is generated by that station using 2013/15 capacity, the amount of electricity to be stated in each ROC is—

- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 5 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule; and
- (b) in respect of the remainder of that electricity, the amount of electricity in the third column of Part 5 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule.

(5) Where a declaration has been made in accordance with paragraph (7) in respect of the 2015/16 capacity of a station, and relevant electricity is generated by that station using 2015/16 capacity, the amount of electricity to be stated in each ROC is—

- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 6 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule; and
- (b) in respect of the remainder of that electricity, the amount of electricity in the third column of Part 6 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule.

(6) Where a declaration has been made in accordance with paragraph (7) in respect of the post-2016 capacity of a station, and relevant electricity is generated by that station using post-2016 capacity, the amount of electricity to be stated in each ROC is—

- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 7 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule; and
- (b) in respect of the remainder of that electricity, the amount of electricity in the third column of Part 7 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule.

(7) A declaration is made in accordance with this paragraph if it meets the following conditions—

- (a) it is made by the operator of the generating station to the Authority in writing;
- (b) it is made in respect of the [<sup>F2</sup>pre-2013 capacity,] 2013/15 capacity, 2015/16 capacity or post-2016 capacity of the station;

[<sup>F3</sup>(ba) in the case of a declaration made in respect of the pre-2013 capacity of the station, it confirms that—

- (i) pre-2013 capacity forms part of the total installed capacity of the station, and
- (ii) support has not been given under any relevant scheme for heat produced by the use of that generating capacity;]

(c) in the case of a declaration made in respect of the 2013/15 capacity of the station, it confirms that—

- (i) 2013/15 capacity forms part of the total installed capacity of the station, and
- (ii) support has not been given under any relevant scheme for heat produced by the use of that generating capacity;

(d) in the case of a declaration made in respect of the 2015/16 capacity of the station, it confirms that—

- (i) 2015/16 capacity forms part of the total installed capacity of the station, and
- (ii) none of the heat produced by the use of the 2015/16 capacity is eligible for support under a relevant scheme for reasons that include one or both of the following—
  - (aa) the way in which the station generates electricity,
  - (bb) the bioliquid, biomass or energy crops used by the station to generate electricity;

(e) in the case of a declaration made in respect of the post-2016 capacity of the station, it confirms that—

- (i) post-2016 capacity forms part of the total installed capacity of the station, and
- (ii) none of the heat produced by the use of the post-2016 capacity is eligible for support under a relevant scheme for reasons that include one or both of the following—

- (aa) the way in which the station generates electricity,
- (bb) the bioliquid, biomass or energy crops used by the station to generate electricity; and
- (f) it states that, for so long as the station generates electricity in respect of which ROCs may be issued, the operator of the station will not claim support under any relevant scheme for heat produced by the station using the category of generating capacity in respect of which the declaration is made.
- (8) A declaration made in accordance with paragraph (7) cannot be withdrawn.
- (9) In this article, “relevant scheme” means a scheme established by the Secretary of State in exercise of the power in section 100(1)(a) of the Energy Act 2008 <sup>M1</sup>.
- (10) This article is subject to article 41.

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**Textual Amendments**

- F1** Art. 35(3A)(3B) inserted (20.7.2018) by The Renewables Obligation (Amendment) Order 2018 (S.I. 2018/896), arts. 1(1), **4(2)**
- F2** Words in art. 35(7)(b) inserted (20.7.2018) by The Renewables Obligation (Amendment) Order 2018 (S.I. 2018/896), arts. 1(1), **4(3)(a)**
- F3** Art. 35(7)(ba) inserted (20.7.2018) by The Renewables Obligation (Amendment) Order 2018 (S.I. 2018/896), arts. 1(1), **4(3)(b)**

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**Marginal Citations**

- M1** 2008 c.32.

**Changes to legislation:**

There are currently no known outstanding effects for the The Renewables Obligation Order 2015, Section 35.