

**2017 No. 1289**

**ELECTRICITY, ENGLAND AND WALES**

**The Renewables Obligation (Amendment) (Energy Intensive Industries) Order 2017**

*Made* - - - - *14th December 2017*

*Coming into force in accordance with article 1*

This Order is made by the Secretary of State in exercise of the powers conferred by sections 32, 32A, 32J and 32K of the Electricity Act 1989(a).

The Secretary of State has consulted the Gas and Electricity Markets Authority, the National Association of Citizens Advice Bureaux, the Scottish Association of Citizens Advice Bureaux, electricity suppliers to whom this Order applies and such generators of electricity from renewable sources and other persons as the Secretary of State considered appropriate in accordance with section 32L(1) of the Electricity Act 1989(b).

In accordance with section 32L(2) of the Electricity Act 1989, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

**Citation, commencement, extent and interpretation**

**1.**—(1) This Order may be cited as the Renewables Obligation (Amendment) (Energy Intensive Industries) Order 2017 and comes into force on the day after the day on which it is made.

(2) This Order extends to England and Wales only.

(3) In this Order, the “2015 Order” means the Renewables Obligation Order 2015(c).

**Amendment to article 2 of the 2015 Order (interpretation)**

**2.** In Article 2(1) of the 2015 Order, after the definition of “designated electricity supplier” insert—

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(a) 1989 c.29, sections 32 to 32L and 32M were substituted by section 37 of the Energy Act 2008 (c.32) for sections 32 to 32C. Section 32L(1) has been amended by S.I. 2014/631. There are other amendments to sections 32 to 32L and 32M which are not relevant.

(b) Section 32L(1) of the Electricity Act 1989 refers to “the Authority”, “Citizens Advice” and “Citizens Advice Scotland”. These are defined in section 111(1) of the Electricity Act 1989, as inserted by paragraph 40(a) of Schedule 6 to the Utilities Act 2000 (c. 27) and paragraph 5(20) of Schedule 1 to S.I. 2014/631.

(c) S.I. 2015/1947, as amended by S.I. 2016/457, S.I. 2016/992, S.I. 2016/1108 and S.I. 2017/1234.

““EII excluded electricity” means electricity which constitutes EII excluded electricity within the meaning of regulation 6(1) of the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015(a);”.

#### **Amendments to article 7 of the 2015 Order (the renewables obligation)**

3.—(1) Article 7 of the 2015 Order is amended as follows.

(2) In paragraph (2)—

- (a) for “electricity that it supplies to customers in England and Wales” substitute “relevant electricity that it supplies”; and
- (b) for “article 13” substitute “articles 13 to 13B”.

(3) After paragraph (4), insert—

“(5) In this Part, “relevant electricity” means—

(a) in respect of—

- (i) any obligation period beginning on or after 1st April 2019; or
- (ii) any month of an obligation period in respect of which a revised obligation level applies in accordance with article 13B(7)(a)(ii), (b)(ii), (8)(a) or (b)(ii), any electricity supplied to customers in England and Wales other than EII excluded electricity; and

(b) in respect of any other period, any electricity supplied to customers in England and Wales.”

#### **Amendment to article 10 of the 2015 Order (calculation A)**

4. In article 10(3) of the 2015 Order, for “articles 12 and 13” substitute “this Part”.

#### **Amendment to article 11 of the 2015 Order (calculation B)**

5. In article 11(5) of the 2015 Order, for “articles 12 and 13” substitute “this Part”.

#### **Amendment to article 12 of the 2015 Order (determining the total number of UK ROCs to be produced in an obligation period)**

6. In article 12(4) of the 2015 Order, for “article 13” substitute “this Part”.

#### **Amendments to article 13 of the 2015 Order (determining the number of UK ROCs to be produced by a designated electricity supplier in order to discharge its renewables obligation)**

7.—(1) Article 13 of the 2015 Order is amended as follows.

(2) Before paragraph (1) insert—

“(A1) This article applies in respect of an obligation period ending on or before 31st March 2019.”

(3) At the beginning of paragraph (1), insert “Subject to article 13B.”.

(4) At the beginning of paragraph (2), insert “Subject to article 13B.”.

#### **New articles 13A and 13B (EII excluded electricity)**

8. After article 13 of the 2015 Order, insert—

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(a) S.I. 2015/721, as amended by S.I. 2017/1051 (The Electricity Supplier Obligations (Amendment & Excluded Electricity) (Amendment) Regulations 2017).

**“Determining the number of UK ROCs to be produced by a designated electricity supplier in order to discharge its renewables obligation: obligation periods beginning on or after 1st April 2019**

**13A.**—(1) This article applies in respect of an obligation period beginning on or after 1st April 2019.

(2) Before the start of an obligation period to which this article applies, the Secretary of State must estimate, in megawatt hours, the total amount of EII excluded electricity likely to be supplied to customers in Great Britain during that period by designated electricity suppliers and electricity suppliers on whom the renewables obligation has been imposed by an order made under sections 32 to 32M of the Act by Scottish Ministers.

(3) Where the total obligation for the obligation period is calculation A, the number of UK ROCs that a designated electricity supplier is required to produce in order to discharge its renewables obligation is, for each megawatt hour of relevant electricity that it supplies during that period, equal to—

$$\frac{(0.154 \times C)}{(C - D)}$$

(4) Where the total obligation for the obligation period is calculation B, the number of UK ROCs that a designated electricity supplier is required to produce in order to discharge its renewables obligation is, for each megawatt hour of relevant electricity that it supplies during that period, equal to—

$$\frac{(E \times C)}{(C - D)}$$

(5) For the purposes of paragraphs (3) and (4)—

- (a) C is the estimate made by the Secretary of State under article 8(1) of the total amount of electricity likely to be supplied to customers in Great Britain during the obligation period;
- (b) D is the estimate made by the Secretary of State under paragraph (2) of the total amount of EII excluded electricity likely to be supplied to customers in Great Britain during the obligation period; and
- (c) E is equal to—

$$\frac{\textit{Calculation B for the obligation period} \times 0.154}{\textit{Calculation A for the obligation period}}.$$

(6) The Secretary of State must publish, by the 1st October preceding the obligation period, the number of UK ROCs that a designated electricity supplier is required to produce in respect of each megawatt hour of relevant electricity that it supplies during that period in order to discharge its renewables obligation for that period.

**Revising the number of UK ROCs to be produced by a designated electricity supplier for the 2017/18 and 2018/19 obligation periods**

**13B.**—(1) This article applies in respect of—

- (a) the 2017/18 obligation period; and
- (b) the 2018/19 obligation period.

(2) Subject to paragraph (3), following the publication under article 13(3) of an obligation level, the Secretary of State may revise that obligation level in accordance with paragraph (5).

(3) The Secretary of State must not revise an obligation level under paragraph (2)—

- (a) after the 23rd November falling within the obligation period to which the obligation level relates; or

(b) more than once in relation to any obligation period.

(4) Before revising an obligation level under paragraph (2), the Secretary of State must estimate, in megawatt hours, the total amount of EII excluded electricity likely to be supplied to customers in Great Britain during the obligation period by designated electricity suppliers and electricity suppliers on whom the renewables obligation has been imposed by an order made under sections 32 to 32M of the Act by Scottish Ministers.

(5) Any revision of an obligation level under paragraph (2) must be calculated in accordance with—

- (a) paragraph (3) of article 13A, where the total obligation for the obligation period is calculation A; or
- (b) paragraph (4) of article 13A, where the total obligation for the obligation period is calculation B,

save that the references to “D” in the formulae set out in paragraphs (3) and (4) of article 13A are to be treated as references to the estimate made by the Secretary of State under paragraph (4) of this article of the total amount of EII excluded electricity likely to be supplied to customers in Great Britain during the obligation period.

(6) If the Secretary of State revises an obligation level under paragraph (2), the Secretary of State must publish the revised obligation level within seven days.

(7) In the case of the 2017/18 obligation period—

- (a) if the Secretary of State has published a revised obligation level under paragraph (6) on or before 31st October 2017, the number of UK ROCs a designated electricity supplier is required to produce in order to discharge its renewables obligation is—
  - (i) for each megawatt hour of relevant electricity that it supplies during the part of the obligation period beginning with the first day of the obligation period and ending with 31st December 2017, the original obligation level; and
  - (ii) for each megawatt hour of relevant electricity that it supplies during the part of the obligation period beginning with 1st January 2018 and ending with the last day of the obligation period, the revised obligation level;
- (b) if the Secretary of State has published a revised obligation level under paragraph (6) on or after 1st November 2017, the number of UK ROCs a designated electricity supplier is required to produce in order to discharge its renewables obligation is—
  - (i) for each megawatt hour of relevant electricity that it supplies during the part of the obligation period beginning with the first day of the obligation period and ending with the last day of the third month after the publication date, the original obligation level; and
  - (ii) for each megawatt hour of relevant electricity that it supplies during the part of the obligation period beginning with the first day of the fourth month after the publication date and ending with the last day of the obligation period, the revised obligation level.

(8) In the case of the 2018/19 obligation period—

- (a) if the Secretary of State has published a revised obligation level under paragraph (6) on or before 31st December 2017, the number of UK ROCs a designated electricity supplier is required to produce in order to discharge its renewables obligation is, for each megawatt hour of relevant electricity that it supplies during the obligation period, the revised obligation level;
- (b) if the Secretary of State has published a revised obligation level under paragraph (6) on or after 1st January 2018, the number of UK ROCs a designated electricity supplier is required to produce in order to discharge its renewables obligation is—
  - (i) for each megawatt hour of relevant electricity that it supplies during the part of the obligation period beginning with the first day of the obligation period

and ending with the last day of the third month after the publication date, the original obligation level; and

- (ii) for each megawatt hour of relevant electricity that it supplies during the part of the obligation period beginning with the first day of the fourth month after the publication date and ending with the last day of the obligation period, the revised obligation level.

(9) In this article—

“2017/18 obligation period” means the obligation period beginning on 1st April 2017;

“2018/19 obligation period” means the obligation period beginning on 1st April 2018;

“obligation level” means the number of UK ROCs that a designated electricity supplier is required to produce in respect of each megawatt hour of electricity that it supplies to customers in England and Wales during an obligation period in order to discharge its renewables obligation for that period as determined under article 13(1) or (2);

“original obligation level” means the obligation level as published under article 13(3);

“publication date” means the date of publication of the revised obligation level under paragraph (6); and

“revised obligation level” means the obligation level as revised in accordance with paragraph (5).”.

**Amendment to article 79 of the 2015 Order (provision of information to determine whether a supplier is discharging its renewables obligation)**

9. In article 79(2) of the 2015 Order, omit “and” after sub-paragraph (b) and insert after that sub-paragraph—

“(ba) estimates of the amount of EII excluded electricity it has supplied to customers in England and Wales during each month—

(i) of an obligation period beginning on or after 1st April 2019; or

(ii) in respect of which a revised obligation level applies in accordance with article 13B(7) or (8),

by no later than the 1st June following that period;

(bb) figures showing the amount of EII excluded electricity it has actually supplied to customers in England and Wales during each month—

(i) of an obligation period beginning on or after 1st April 2019; or

(ii) in respect of which a revised obligation level applies in accordance with article 13B(7) or (8),

by no later than the 1st July following that period; and”.

*Claire Perry*

Minister of State for Climate Change and Industry  
Department for Business, Energy and Industrial Strategy

14th December 2017

**EXPLANATORY NOTE**

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

This Order amends the Renewables Obligation Order 2015 (the “2015 Order”). The 2015 Order imposes an obligation (the “renewables obligation”), on all electricity suppliers licensed under the Electricity Act 1989 which supply electricity in England and Wales, to produce a certain number of renewables obligation certificates in respect of the electricity they supply to customers in England and Wales during a specified period known as an “obligation period”. Each obligation period runs from 1st April to 31st March. The renewables obligation is administered by the Gas and Electricity Markets Authority (the “Authority”) which issues renewables obligation

certificates to renewable electricity generators based on their renewable output. These certificates are sold to electricity suppliers with or without the associated renewable electricity.

Article 2 inserts a new definition of “EII excluded electricity” into the 2015 Order. “EII excluded electricity” is defined by reference to regulation 6(1) of the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015 (the “2015 Regulations”) and comprises electricity which is supplied to certain industrial users of electricity. The 2015 Regulations set out a process for determining whether electricity is EII excluded electricity.

Articles 3 and 8 make amendments to the electricity supply in respect of which renewables obligation certificates are to be produced and amendments to the process for calculating the number of certificates to be produced.

Article 3 amends the provision imposing the renewables obligation in article 7(2) of the 2015 Order and inserts a new paragraph (5) with a new definition of “relevant electricity”.

Article 8 inserts new articles 13A and 13B into the 2015 Order. New article 13A applies in place of article 13 of the 2015 Order to determine the number of renewables obligation certificates to be produced by an electricity supplier in respect of obligation periods beginning on or after 1st April 2019. The new article requires the Secretary of State to estimate the amount of EII excluded electricity likely to be supplied to customers in Great Britain by electricity suppliers in England, Wales and Scotland. The formulae in article 13 of the 2015 Order for calculating the number of renewables obligation certificates to be produced are adjusted to reflect the exclusion of EII excluded electricity from the electricity supply in respect of which renewables obligation certificates are required to be produced.

New article 13B enables the Secretary of State to revise the renewables obligation for an obligation period after the number of renewables obligation certificates to be produced for that period has been published. A revision may be made for the obligation period beginning on 1st April 2017 and for the obligation period beginning on 1st April 2018.

Articles 4 to 7 make a number of consequential amendments to Part 2 of the 2015 Order.

Article 9 amends article 79(2) of the 2015 Order to set out the circumstances in which information regarding the supply of EII excluded electricity to customers in England and Wales must be provided to the Authority and the Secretary of State by electricity suppliers.

An explanatory memorandum is available alongside this Order on [www.legislation.gov.uk](http://www.legislation.gov.uk). An impact assessment of the effect that this Order will have on the costs of business and the voluntary sector is available alongside the Order on that website.

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