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STATUTORY INSTRUMENTS

2015 No. 1947

ELECTRICITY, ENGLAND AND WALES

The Renewables Obligation Order 2015

Made - - - - 26th November 2015

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 to 32K, 32LA and 32M of the Electricity Act 1989 [F1] ("the 1989 Act") and section 2(2) of the European Communities Act 1972 [F2] ("the 1972 Act") (as read with paragraph 1A of Schedule 2 to the 1972 Act) [F3].

The Secretary of State is a Minister designated for the purposes of section 2(2) of the 1972 Act in relation to energy and energy sources [F4].

This Order makes provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Secretary of State that it is expedient for the references to Annex 5 to Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources [F5] in article 83 of and Schedules 1 and 3 to this Order to be construed as references to Annex 5 to that Directive as amended from time to time.

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 [F6], 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 1989 Act.

In exercising the power to make provision under section 32D(1) of the 1989 Act, the Secretary of State has had regard to the matters specified in section 32D(4).

In accordance with section 32L(2) of the 1989 Act, and paragraph 2(2) of Schedule 2 to the 1972 Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Accordingly the Secretary of State makes the following Order:

F1 1989 c.29, **sections 32 to 32M** were substituted by section 37 of the Energy Act 2008 (c.32) for sections 32 to 32C. Section 32M(1) was amended by article 2 of S.I. 2011/984 and section 55(2) of the Energy Act 2013 (c.32) and section 32LA was inserted together with section 32LB by section 55(1) of that Act.

F2 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

F3 Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and was amended by article 3 of S.I. 2007/1388 and Part 1 of the Schedule to the European Union (Amendment) Act 2008.
F4 Article 6 of S.I. 2010/761.
F5 OJ No L 140, 5.6.2009, p16.
F6 Section 32L(1) of the 1989 Act refers to "the Authority", "Citizens Advice" and "Citizens Advice Scotland". These are defined in section 111(1) of the 1989 Act, 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.

PART 1

Introductory provisions

Citation, commencement and extent

1.—(1) This Order may be cited as the Renewables Obligation Order 2015.

(2) Subject to paragraph (3), this Order comes into force on the first day of the month following that in which it is made.

(3) Articles 45(4)(d) and (5)(a) and 48 come into force on the first day of the second month following that in which this Order is made.

(4) Subject to paragraph (5), this Order extends to England and Wales only.

(5) Article 97 also extends to Scotland.

Interpretation

2.—(1) In this Order—

"the Act" means the Electricity Act 1989 [F7];

"2009 Order" means the Renewables Obligation Order 2009 [F8];

"2013/14 capacity" means—

(a) in relation to a generating station accredited on or before 31st March 2013, any capacity which, in the Authority's view—

(i) forms part of the station from a date no earlier than 1st April 2013 and no later than 31st March 2014, and

(ii) does not form part of the original capacity of the station,

(b) in relation to a grace period generating station, any capacity which, in the Authority's view—

(i) forms part of the station from a date no later than 31st March 2014, and

(ii) does not form part of the original capacity of the station,

(c) in relation to a generating station which—

(i) was not accredited on or before 31st March 2013,

(ii) was accredited on or before 31st March 2014, and

(iii) is not a grace period generating station,

the original capacity of the station, together with any additional capacity which, in the Authority's view, forms part of the station from a date no later than 31st March 2014;

"2013/15 capacity" means any capacity which is 2013/14 capacity or 2014/15 capacity;

"2014/15 capacity" means—

(a) in relation to a generating station accredited on or before 31st March 2014, any capacity which, in the Authority's view—

(i) forms part of the station from a date no earlier than 1st April 2014 and no later than 31st March 2015, and

(ii) does not form part of the original capacity of the station,

(b) in relation to a generating station which—

(i) was not accredited on or before 31st March 2014, and

(ii) was accredited on or before 31st March 2015,

the original capacity of the station, together with any additional capacity which, in the Authority's view, forms part of the station from a date no later than 31st March 2015;

"2015/16 capacity" means—

(a) in relation to a generating station accredited on or before 31st March 2015, any capacity which, in the Authority's view—

(i) forms part of the station from a date no earlier than 1st April 2015 and no later than 31st March 2016, and

(ii) does not form part of the original capacity of the station,

(b) in relation to a generating station which—

(i) was not accredited on or before 31st March 2015, and

(ii) was accredited on or before 31st March 2016,

the original capacity of the station, together with any additional capacity which, in the Authority's view, forms part of the station from a date no later than 31st March 2016;

"accreditation", in relation to a generating station, means accreditation of the station as one which is capable of generating electricity from renewable sources by the Authority or the Northern Ireland authority (and includes an accreditation granted before this Order came into force);

"accredited" is to be construed in accordance with the definition of "accreditation";

"advanced fuel" means a liquid or gaseous fuel which is produced directly or indirectly from the gasification or the pyrolysis of—

(a) waste, or

(b) biomass;

"anaerobic digestion" means the bacterial fermentation of organic material in the absence of free oxygen;

"ancillary purposes", in relation to fossil fuel or waste used in a combustion unit or by a generating station, means fossil fuel or waste which is used in that combustion unit or by the station for—

(a) cleansing other fuels from the station's combustion system prior to using fossil fuel or waste to heat the combustion system to its normal temperature,

(b) the heating of the station's combustion system to its normal operating temperature or the maintenance of that temperature,

(c) the ignition of fuels of low or variable calorific value,

(d) corrosion control,

(e) emission control,

(f) fouling reduction, or

(g) standby generation or the testing of standby generation capacity (where "standby generation" means the generation of electricity by equipment which is not used frequently or regularly to generate electricity and where all the electricity generated by that equipment is used by the generating station);

"animal excreta" means excreta produced by animals and includes biomass wholly derived from excreta produced by animals;

"biomass" is to be construed in accordance with article 3, except for the purposes of article 95;

"biomaterial" means the biodegradable part of—

(a) products, waste and residues of biological origin resulting from agriculture (including vegetal and animal substances), forestry and related industries (including fisheries and aquaculture), and

(b) industrial, commercial and municipal waste;

"BS EN 15359:2011" means the document identified by Standard Number BS EN:15359:2011 and entitled "Solid recovered fuels. Specifications and classes" published by the British Standards Institution on 30th November 2011 [F9];

"BS EN 15402:2011" means the document identified by Standard Number BS EN 15402:2011 and entitled "Solid recovered fuels. Determination of the content of volatile matter" published by the British Standards Institution on 31st March 2011 [F10];

"BS EN 15415-1:2011" means the document identified by Standard Number BS EN 15415-1:2011 and entitled "Solid recovered fuels. Determination of particle size distribution. Screen method for small dimension particles" published by the British Standards Institution on 30th September 2011 [F11];

"BS EN 15590:2011" means the document identified by Standard Number BS EN 15590:2011 and entitled "Solid recovered fuels. Determination of the current rate of aerobic microbial activity using the real dynamic respiration index" published by the British Standards Institution on 30th September 2011 [F12];

"CFD" has the meaning given in section 6(2) of the Energy Act 2013 [F13];

[[F14]"CHPQA" means the Combined Heat and Power Quality Assurance Standard, Issue 6, October 2016 and Guidance Note 44 (Use of CHPQA in respect of the Renewables Obligation and Contracts for Difference), Issue 6, October 2016;**]**[M1]

"CHP station" means a station which generates electricity and is (or may be) operated for purposes including the supply to any premises of—

(a) heat produced in association with electricity, or

(b) steam produced from, or air or water heated by, such heat;

"civil works", in relation to a hydro generating station, means all man-made structures, and man-made works for holding water which are located on the inlet side of a turbine ("turbine A"), excluding any such structures or works which supply another turbine before water is supplied to the structures and works which supply turbine A;

"combustion unit" means a boiler, turbine or engine;

"commissioned", in relation to a generating station, means the completion of such procedures and tests in relation to that station as constitute, at the time they are undertaken, the usual industry standards and practices for commissioning that type of generating station in order to demonstrate that that generating station is capable of commercial operation;

"connected person", in relation to the owner or operator of a generating station, or any party to a NFFO arrangement, means any person connected to that owner, operator or party within the meaning of section 1122 of the Corporation Tax Act 2010 **F15**;

"declared net capacity", in relation to a generating station, means the maximum capacity at which the station could be operated for a sustained period without causing damage to it (assuming the source of power used by it to generate electricity was available to it without interruption) less the amount of electricity that is consumed by the station;

"delivery body" means—

(a) the person operating the national transmission system for Great Britain ("the national system operator"), or

(b) if the national system operator's functions under Chapter 2 of Part 2 of the Energy Act 2013 **F16** have been transferred to an alternative delivery body, that body;

"designated electricity supplier" has the meaning given by article 7(1);

[F17"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;**]M2**

"energy content", in relation to any substance, means the energy contained within that substance (whether measured by a calorimeter or determined in some other way) expressed in terms of the substance's gross calorific value within the meaning of British Standard BS 7420:1991 (Guide for determination of calorific values of solid, liquid and gaseous fuels (including definitions)) published by the British Standard Institute on 28th June 1991 **F18**;

"energy crops" means—

(a) a perennial crop planted at high density, the stems of which are harvested above ground level at intervals of less than twenty years and which is one of the following—

  (i) Acer pseudoplatanus (also known as sycamore),

  (ii) Alnus (also known as alder),

  (iii) Betula (also known as birch),

  (iv) Castanea sativa (also known as sweet chestnut),

  (v) Corylus avellana (also known as hazel),

  (vi) Fraxinus excelsior (also known as ash),

  (vii) Populus (also known as poplar),

  (viii) Salix (also known as willow),

  (ix) Tilia cordata (also known as small-leaved lime); or

(b) a perennial crop which is one of the following—

  (i) Arundo donax (also known as giant reed),

  (ii) Bambuseae, where the crop was planted after 31st December 1989 and is grown primarily for the purpose of being used as fuel,

  (iii) Miscanthus,

  (iv) Panicum,

  (v) Pennisetum (other than Pennisetum setaceum (also known as fountain grass), Pennisetum clandestinum (also known as kikuyu grass) and Pennisetum villosum (also known as feathertop grass)),

  (vi) Phalaris;