STATUTORY INSTRUMENTS

2015 No. 920

ELECTRICITY

The Renewables Obligation Closure (Amendment) Order 2015

Made - - - - 23rd March 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 32K and 32LA of the Electricity Act 1989(**1**).

The Secretary of State has consulted the Gas and Electricity Markets Authority(**2**) and such generators of electricity from renewable sources and other persons as the Secretary of State considered appropriate in accordance with section 32LB(1) of the Electricity Act 1989(**3**).

In accordance with section 32LB(3) of the Electricity Act 1989 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:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Renewables Obligation Closure (Amendment) Order 2015 and comes into force on the day after the day on which it is made.

(2) In this Order, "the Closure Order" means the Renewables Obligation Closure Order 2014(**4**).

Amendments to article 2 of the Closure Order (interpretation)

2.—(1) Article 2 of the Closure Order is amended as follows.

(2) In paragraph (1)—

(a) at the appropriate places insert—

(**1**) 1989 c.29. Section 32K was inserted by section 37 of the Energy Act 2008 (c.32). Section 32LA was inserted by section 55(1) of the Energy Act 2013 (c.32).

(**2**) Section 32LB(1) of the Electricity Act 1989 refers to "the Authority", this is defined in section 111(1) as inserted by paragraph 40(a) of Schedule 6 to the Utilities Act 2000 (c.27).

(**3**) Section 32LB was inserted by section 55(1) of the Energy Act 2013. Section 32LB(1) refers to "the Council", this was defined in section 111(1) of the Electricity Act 1989, as substituted by section 30(4)(b) of the Consumers, Estate Agents and Redress Act 2007 (c.17) as the National Consumer Council. This definition was omitted by paragraph 5(20)(b) of Schedule 1 to S.I. 2014/631, with effect from 1st April 2014. Article 2 of S.I. 2014/631 abolished the National Consumer Council with effect from 1st April 2014.

(**4**) S.I. 2014/2388.

""additional capacity", in relation to a large solar pv station, means any generating capacity which does not form part of the original capacity of the station;";

""developer", in relation to a large solar pv station, means a person who—

(a) applied for planning permission for the station,

(b) arranged for grid works to be carried out in relation to the station,

(c) arranged for the construction of any part of the station,

(d) constructed any part of the station, or

(e) operates, or proposes to operate, the station;";

""exclusivity agreement", in relation to land, means an agreement, by the owner or a lessee of the land, not to permit any person (other than the persons identified in the agreement) to construct a solar pv station on the land;";

""large solar pv station" means a solar pv station where the total installed capacity of the RO capacity of the station is more than 5 megawatts;";

""licensed network operator" means a distribution licence holder or a transmission licence holder;";

""planning permission" has the meaning given in article 13 except that in articles 2B(3) and 2C(2) it does not include—

(a) outline planning permission within the meaning of section 92 of the Town and Country Planning Act 1990(**5**), or

(b) planning permission in principle within the meaning of section 59 of the Town and Country Planning (Scotland) Act 1997(**6**);";

""pre-2016 additional capacity", in relation to a large solar pv station, means any additional capacity which in the Authority's view first formed part of the station from a date which is no later than 31st March 2016;";

""RO capacity" has—

(a) in the case of a generating station located in Scotland, the same meaning as in the Renewables Obligation (Scotland) Order 2009(**7**), and

(b) in any other case, the same meaning as in the Renewables Obligation Order 2009(**8**);";

""Scotland" has the meaning given in section 32(3) of the Electricity Act 1989(**9**);";

""solar pv closure date" means the later of—

(a) 31st March 2015, and

(b) the last day of the month in which this Order comes into force; and"; and

""solar pv station" means a generating station that generates electricity from the direct conversion of sunlight into electricity."; and

(**5**) 1990 c.8. Section 92 has been amended by section 51(2) of the Planning and Compulsory Purchase Act 2004 (c.5). Functions of the Secretary of State under section 92, so far as exercisable in relation to Wales, have been transferred to the Welsh Ministers by S.I. 1999/672.

(**6**) 1997 c.8. Section 59 was substituted by section 21 of the Planning etc (Scotland) Act 2006 (2006 asp 17) as amended by article 5(3) of S.S.I. 2009/256. It has been amended by article 2(5) of S.S.I. 2013/26.

(**7**) S.S.I. 2009/140, as amended by S.S.I. 2009/276, S.S.I. 2010/147, S.S.I. 2011/225, paragraph 22 of the Schedule to S.S.I. 2011/226, S.S.I. 2013/116 and S.S.I. 2014/94.

(**8**) S.I. 2009/785, as amended by S.I. 2010/1107, S.I. 2011/984, paragraph 29 of Schedule 4 to S.I. 2011/988, S.I. 2013/768 and S.I. 2014/893.

(**9**) 1989 c.29. Section 32 was substituted by section 37 of the Energy Act 2008 (c.32).

(b) after the definition of "relevant date" omit "and".

(3) In paragraph (2), after the entry for "regular biomass" insert—

""total installed capacity";".

Large solar pv stations

3. After article 2 of the Closure Order insert—

"**No certificates to be issued in respect of electricity generated after the solar pv closure date by large solar pv stations**

2A.—(1) Subject to paragraph (2), no renewables obligation certificates are to be issued under a renewables obligation order in respect of electricity generated after the solar pv closure date by a large solar pv station.

(2) Paragraph (1) does not apply to electricity generated in the circumstances set out in any one or more of articles 2B to 2D.

Circumstances relating to the original capacity of large solar pv stations

2B.—(1) The circumstances set out in this article are where the electricity is generated using the original capacity of a large solar pv station—

(a) which was accredited on or before the solar pv closure date,

(b) which was granted preliminary accreditation on or before 13th May 2014 and which was accredited on or before 31st March 2016, or

(c) which was accredited on or before 31st March 2016 and in respect of which the documents specified in paragraph (2) or (3) were provided to the Authority with the application for accreditation of the station.

(2) The documents specified in this paragraph are—

(a) evidence of an agreement with a network operator ("the relevant network operator") to carry out grid works in relation to the station ("the relevant grid works");

(b) a copy of a document written by, or on behalf of, the relevant network operator which estimated or set a date for completion of the relevant grid works ("the planned grid works completion date") which was no later than 31st March 2015;

(c) a letter or email written by, or on behalf of, the relevant network operator confirming (whether or not such confirmation is subject to any conditions or other terms) that—

(i) the relevant grid works were completed after the planned grid works completion date, and

(ii) in the relevant network operator's opinion, the failure to complete the relevant grid works on or before the planned grid works completion date was not due to any breach by a developer of the station of any agreement with the relevant network operator; and

(d) a declaration by the operator of the station that, to the best of their knowledge and belief, the station would have been commissioned on or before 31st March 2015 if the relevant grid works had been completed on or before the planned grid works completion date.

(3) The documents specified in this paragraph are—