Draft order laid before Parliament under s.32L(2) of the Electricity Act 1989 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

ELECTRICITY, ENGLAND AND WALES

The Renewables Obligation (Amendment) Order 2014

Made - - - -	***
Coming into force - -	*1st April 2014*

This Order is made by the Secretary of State in exercise of the powers conferred by sections 32(1) and (2), 32A(1) and (2)(f) and (g), 32C, 32J(3), 32K(1) and (3) and 32M(1) of the Electricity Act 1989(**1**) ("the 1989 Act").

The Secretary of State has consulted the Gas and Electricity Markets Authority(**2**), the National Consumer Council(**3**), 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 accordance with section 32L(2) of the 1989 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:

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Renewables Obligation (Amendment) Order 2014 and comes into force on 1st April 2014.

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

(3) In this Order, "the 2009 Order" means the Renewables Obligation Order 2009(**4**).

Amendments to article 2 of the 2009 Order (interpretation)

2.—(1) Article 2 of the 2009 Order(**5**) is amended as follows.

(**1**) 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.
(**2**) Section 32L(1) of the 1989 Act 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 32L(1) of the 1989 Act refers to "the Council", this is defined in section 111(1) as substituted by section 30(4)(b) of the Consumers, Estate Agents and Redress Act 2007 (c.17).
(**4**) S.I. 2009/785 as amended by S.I. 2010/1107, S.I. 2011/984, S.I. 2011/988 and S.I. 2013/768.
(**5**) Article 2 was amended by article 3 of S.I. 2011/984, paragraph 29 of Schedule 4 to S.I. 2011/988 and article 2 of S.I. 2013/768.

(2) In paragraph (1), at the appropriate place insert—

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

""excluded capacity" means—

(a) generating capacity which in the Authority's view—

(i) formed part of a generating station from a date no earlier than 1st April 2014,

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

(iii) is not registered under article 58B, and

(iv) is not a wind turbine forming part of a generating station which is offshore,

(b) a wind turbine which in the Authority's view—

(i) is not registered under article 58A,

(ii) forms part of a generating station which is offshore, and

(iii) where the generating station was accredited as at 31st March 2011, is a registrable additional turbine, or

(c) a combustion unit in relation to which a CFD transfer notice has come into force, and for the purposes of this definition—

(i) "CFD transfer notice" has the meaning given in article 21B(4), and

(ii) the date on which a CFD transfer notice comes into force is to be determined in accordance with article 21B(8);";

""investment contract" has the meaning given in paragraph 1 of Schedule 2 to the Energy Act 2013;";

""ISAE 3000" means the International Standard on Assurance Engagements 3000(**7**) published by the International Federation of Accountants;";

""municipal waste" means—

(a) waste from households, and

(b) other waste that, because of its nature or composition, is similar to waste from households;";

""national system operator" has the meaning given in section 8(3) of the Energy Act 2013;";

""RO capacity", in relation to a generating station, means the generating capacity of the station other than excluded capacity;";

""RO eligible renewable output" is to be construed in accordance with articles 25 and 26;";

""total input electricity", in relation to a generating station, means—

(a) the total amount of electricity used by the station for purposes directly related to its operation (including for fuel handling, fuel preparation, maintenance and the pumping of water) whether or not that electricity is generated by the station or used while the station is generating electricity, and

(b) where the station generates electricity wholly or partly from hydrogen (other than hydrogen that constitutes fossil fuel), any electricity—

(i) in respect of which ROCs are or have been issued,

(**6**) 2013 c.32.

(**7**) The International Standard on Assurance Engagements 3000 is set out from page 87 of Part II of the publication entitled "Handbook of International Quality Control, Auditing, Review, Other Assurance, and Related Services Pronouncements" (2013 edition) (ISBN 978-1-60815-152-3) published by the International Federation of Accountants. Copies can be obtained from www.ifac.org.

(ii) in respect of which ROCs cannot be issued by virtue of any provision of Part 4 (cases and circumstances when a ROC must not be issued), or

(iii) which was not generated from renewable sources,

and which is used in the production of that hydrogen (regardless of where or by whom the hydrogen is produced);"; and

""total output electricity", in relation to a generating station, means the total amount of electricity generated by that station;".

(3) In paragraph (1), for the definition of "CHPQA" substitute—

""CHPQA" means the Combined Heat and Power Quality Assurance Standard, Issue 5 published by the Department of Energy and Climate Change in November 2013 and Guidance Note 44 (Use of CHPQA to obtain support for electrical output from renewable CHP under the renewables obligation), Issue 4, published by the Department of Energy and Climate Change in December 2013(**8**);".

(4) In paragraph (1), omit the definition of "renewable output".

(5) In paragraph (1), for the definition of "total installed capacity" substitute—

""total installed capacity", in relation to references to a generating station or to generating capacity of any description, means the maximum capacity at which that generating station or generating capacity 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);".

(6) For paragraph (7) substitute—

"(7) Any reference in this Order to a "type of generating capacity" is to be construed in accordance with article 25(9).".

Amendment to article 3 of the 2009 Order (waste as a renewable source)

3. In article 3(7) of the 2009 Order omit ", "municipal waste"".

Generating stations with excluded capacity

4. For article 17AB of the 2009 Order(**9**) substitute—

"**Generating stations using excluded capacity to generate electricity**

17AB.—(1) This article applies to a generating station where excluded capacity forms all or part of the total installed capacity of the station.

(2) No ROCs are to be issued in respect of any electricity generated in any month by a generating station to which this article applies unless during that month—

(a) all of the electricity generated by the station using the excluded capacity is measured separately from any electricity generated by the station using RO capacity, or

(b) all of the electricity generated by the station using RO capacity is measured separately from any electricity generated by the station using the excluded capacity.

(**8**) Copies can be obtained from the Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW and are available at http://chpqa.decc.gov.uk/chpqa-documents.

(**9**) Article 17AB was inserted by article 8 of S.I. 2011/984.

(3) ROCs are not to be issued in respect of any electricity generated using excluded capacity.".

Electricity in respect of which a CFD or investment contract applies and combustion units in relation to which a CFD or investment contract has been entered into

5. After article 21 of the 2009 Order insert—

"**Electricity in respect of which a CFD or investment contract applies**

21A. ROCs are not to be issued in respect of any electricity in respect of which a CFD or investment contract applies.

Combustion units in relation to which a CFD or investment contract has been entered into

21B.—(1) This article applies to a combustion unit in relation to which a CFD or investment contract has been entered into.

(2) Subject to paragraph (3), ROCs are not to be issued in respect of any electricity generated by a combustion unit to which this article applies.

(3) Paragraph (2) does not apply if a CFD transfer notice has been given to the Authority by the operator of the generating station in respect of the combustion unit.

(4) A CFD transfer notice is a notice which—

(a) is in writing,

(b) identifies the combustion unit to which it relates,

(c) states the date from which the operator of the generating station intends to start using that combustion unit to generate electricity only from biomass ("the conversion date"), and

(d) states the date on which a CFD or investment contract was entered into in relation to that combustion unit.

(5) Once a CFD transfer notice has been received by the Authority it cannot be withdrawn.

(6) Subject to paragraph (7), the operator of a generating station may change the conversion date stated in a CFD transfer notice in respect of a combustion unit at the generating station by giving notice to the Authority in writing.

(7) The conversion date stated in a CFD transfer notice cannot be changed—

(a) after 31st March 2027,

(b) after the CFD transfer notice has come into force, or

(c) if a CFD made in relation to the combustion unit to which the CFD transfer notice relates has been terminated or otherwise ceased to have effect.

(8) For the purposes of this article, a CFD transfer notice comes into force—

(a) on the conversion date stated in the CFD transfer notice, or

(b) if earlier, as from the start of the first month—

(i) which is after March 2014, and

(ii) during which the combustion unit to which the CFD transfer notice relates burns only biomass.

(9) For the purpose of paragraph (8)(b)(ii), no account is to be taken of any fossil fuel or waste which is used—

(a) in the combustion unit for a purpose listed in article 22(3)(a), and

(b) in a month in which the energy content of the fossil fuel or waste used in that combustion unit for a purpose listed in article 22(3)(a) (or, where both fossil fuel and waste are so used during a month, their combined energy content) does not exceed 10% of the energy content of all of the energy sources burned in that combustion unit during that month.".

RO input electricity, RO output electricity and ineligible renewable sources

6.—(1) In the heading to Part 5 of the 2009 Order, before "renewable output" insert "RO eligible".

(2) In Part 5 of the 2009 Order, before article 24 insert—

"**RO input electricity, RO output electricity and ineligible renewable sources**

23A.—(1) This article applies for the purposes of this Part.

(2) In any month where the total installed capacity of a generating station does not include any excluded capacity, "RO input electricity", in relation to that station, means the total input electricity of the station during that month.

(3) Subject to paragraphs (4) and (5), in any month where the total installed capacity of a generating station includes excluded capacity, the "RO input electricity" of the station is equal to

$$A-\left(A\times\frac{B}{C}\right)$$

where—

(a) A is the total input electricity of the station during that month,

(b) B is the total installed capacity of the excluded capacity, and

(c) C is the total installed capacity of the station.

(4) Subject to paragraph (5), in any month where the total installed capacity of a generating station includes excluded capacity and electricity which is used by the station solely for purposes directly related to the operation of the excluded capacity is measured separately from the remainder of the electricity used by the station, the "RO input electricity" of the station is equal to

$$A-D$$

where—

(a) A is the total input electricity of the station during that month, and

(b) D is the total amount of electricity measured as being used by the station solely for purposes directly related to the operation of the excluded capacity during that month.

(5) In any month where—

(a) the total installed capacity of a generating station includes excluded capacity,

(b) all of the electricity which is used by the station for purposes directly related to the operation of the RO capacity is measured separately from the remainder of the electricity used by the station, and