Draft Order laid before Parliament under section 32LB(3) of the Electricity Act 1989, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

ELECTRICITY

The Renewables Obligation Closure Order 2014

Made - - - - ***

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**), the National Consumer Council(**3**), 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(**4**).

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 and commencement

1. This Order may be cited as the Renewables Obligation Closure Order 2014 and comes into force on the day after the day on which it is made.

Interpretation

2.—(1) In this Order—

(**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(1) of the Electricity Act 1989 refers to "the Council". Section 111(1) as substituted by section 30(4)(b) of the Consumers, Estate Agents and Redress Act 2007 (c.17) defined "the Council" 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. Paragraph 28(1) of Schedule 1 to S.I. 2014/631 provides that nothing in that statutory instrument affects the validity of anything done (or having effect as if done) by or in relation to the National Consumer Council before 1st April 2014. Consultation on the subject matter of this Order was carried out in November 2013.

(**4**) Section 32LB was inserted by section 55(1) of the Energy Act 2013.

"accredited" is to be construed in accordance with the definition of "accreditation" in article 2 of the Renewables Obligation Order 2009(**5**);

"CHPQA 3" means the Combined Heat and Power Quality Assurance Standard, Issue 3, published by the Department for Environment, Food and Rural Affairs in January 2009(**6**);

"CHPQA 5" means the Combined Heat and Power Quality Assurance Standard, Issue 5, published by the Department of Energy and Climate Change in November 2013(**7**);

"commission" and "commissioned" are to be construed in accordance with the definition of "commissioned" in article 2 of the Renewables Obligation Order 2009;

"grid works", in relation to a generating station, means—

(a) the construction of a connection between the station and a transmission or distribution system for the purpose of enabling electricity to be conveyed from the station to that system, or

(b) the carrying out of modifications to a connection between the station and a transmission or distribution system for the purpose of enabling an increase in the amount of electricity that can be conveyed over that connection from the station to that system;

"network operator" means a distribution exemption holder, distribution licence holder or a transmission licence holder;

"original capacity", in relation to a generating station, means the generating capacity of the station as accredited;

"radar works" means—

(a) the construction of a radar station,

(b) the installation of radar equipment,

(c) the carrying out of modifications to a radar station or to radar equipment, or

(d) the testing of a radar station or radar equipment;

"relevant date" means the later of—

(a) 31st October 2014, and

(b) the date falling two months after the day on which this Order comes into force; and

"relevant fossil fuel generating station" has the same meaning as in Schedule 2 to the Renewables Obligation Order 2009(**8**).

(2) In this Order, the following have the same meaning as in the Renewables Obligation Order 2009(**9**)—

"biomass";

"energy crops";

"permitted ancillary purposes";

"regular biomass";

"waste".

(**5**) 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. Article 2 of S.I. 2009/785 has been amended by article 2 of S.I. 2013/768. There are other amendments to article 2 which are not relevant.

(**6**) 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.

(**7**) 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.

(**8**) Schedule 2 to S.I. 2009/785 has been amended by article 17 of S.I. 2011/984 and article 24 of S.I. 2013/768. There are other amendments which are not relevant.

(**9**) See article 2(1) of S.I. 2009/785 (as amended by article 2 of S.I. 2013/768).

No certificates to be issued in respect of electricity generated after 31st March 2017

3.—(1) Subject to paragraph (2), no renewables obligation certificates are to be issued under a renewables obligation order in respect of electricity generated after 31st March 2017.

(2) Paragraph (1) does not apply to electricity generated in any one or more of the circumstances set out in articles 4 to 12.

Circumstances relating to generating stations accredited, and generating capacity added, on or before 31st March 2017

4. The circumstances set out in this article are where the electricity is—

(a) generated by a generating station which was accredited on or before 31st March 2017, and

(b) generated using—

(i) the original capacity of the station, or

(ii) any generating capacity which in the Authority's view first formed part of the station from a date no later than 31st March 2017.

Circumstances relating to certain delays in grid or radar works in the case of generating stations accredited on or before 31st March 2017

5.—(1) The circumstances set out in this article are where the electricity is—

(a) generated by a generating station which was accredited on or before 31st March 2017, and

(b) generated using 2017/18 capacity in respect of which the documents specified in paragraph (2), (3) or (4) have been submitted by the operator of the station to the Authority.

(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 2017;

(c) a letter from 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 generating station developer of any agreement with the relevant network operator; and

(d) a declaration by the operator of the generating station that, to the best of their knowledge and belief, the 2017/18 capacity would have formed part of the station on or before 31st March 2017 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—

(a) evidence of an agreement between a generating station developer and a person who is not a generating station developer ("the radar works agreement") for the carrying out of radar works ("the relevant radar works");

(b) a copy of a document written by, or on behalf of, a party to the radar works agreement (other than a generating station developer) which estimated or set a date for completion

of the relevant radar works ("the planned radar works completion date") which was no later than 31st March 2017;

(c) a letter from a party to the radar works agreement (other than a generating station developer) confirming, whether or not such confirmation is subject to any conditions or other terms, that—

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

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

(d) a declaration by the operator of the generating station that, to the best of their knowledge and belief, the 2017/18 capacity would have formed part of the station on or before 31st March 2017 if the relevant radar works had been completed on or before the planned radar works completion date.

(4) The documents specified in this paragraph are—

(a) the documents specified in paragraph (2)(a), (b) and (c);

(b) the documents specified in paragraph (3)(a), (b) and (c); and

(c) a declaration by the operator of the generating station that, to the best of their knowledge and belief, the 2017/18 capacity would have formed part of the station on or before 31st March 2017 if—

(i) the relevant grid works had been completed on or before the planned grid works completion date, and

(ii) the relevant radar works had been completed on or before the planned radar works completion date.

(5) In this article—

"2017/18 capacity", in relation to a generating station, means any generating capacity—

(a) which does not form part of the original capacity of the station, and

(b) which, in the Authority's view, first formed part of the station from a date no earlier than 1st April 2017 and no later than 31st March 2018; and

"generating station developer", in relation to a generating station, means the operator of the station, or a person who arranged for the construction of the 2017/18 capacity of the station.

Circumstances relating to certain delays in grid or radar works in the case of generating stations first accredited after 31st March 2017

6.—(1) The circumstances set out in this article are where the electricity is generated using the original capacity of a generating station—

(a) which was not accredited on or before 31st March 2017,

(b) which was accredited on or before 31st March 2018, and

(c) in respect of which the documents specified in paragraph (2), (3) or (4) were submitted by the operator of the station and received by the Authority on or before the date on which the Authority made its decision to accredit 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 2017;

(c) a letter from 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 generating station developer of any agreement with the relevant network operator; and

(d) a declaration by the operator of the generating station that, to the best of their knowledge and belief, the station would have been commissioned on or before 31st March 2017 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—

(a) evidence of an agreement between a generating station developer and a person who is not a generating station developer ("the radar works agreement") for the carrying out of radar works ("the relevant radar works");

(b) a copy of a document written by, or on behalf of, a party to the radar works agreement (other than a generating station developer) which estimated or set a date for completion of the relevant radar works ("the planned radar works completion date") which was no later than 31st March 2017;

(c) a letter from a party to the radar works agreement (other than a generating station developer) confirming, whether or not such confirmation is subject to any conditions or other terms, that—

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

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

(d) a declaration by the operator of the generating station that, to the best of their knowledge and belief, the station would have been commissioned on or before 31st March 2017 if the relevant radar works had been completed on or before the planned radar works completion date.

(4) The documents specified in this paragraph are—

(a) the documents specified in paragraph (2)(a), (b) and (c);

(b) the documents specified in paragraph (3)(a), (b) and (c); and

(c) a declaration by the operator of the generating station that, to the best of their knowledge and belief, the station would have been commissioned on or before 31st March 2017 if—

(i) the relevant grid works had been completed on or before the planned grid works completion date, and

(ii) the relevant radar works had been completed on or before the planned radar works completion date.

(5) In this article, "generating station developer", in relation to a generating station, means the operator of the station, or a person who arranged for the construction of the station.