STATUTORY RULES OF NORTHERN IRELAND

2009 No. 35

ELECTRICITY

Energy (Amendment) Order (Northern Ireland) 2009

Laid before the Assembly in draft

Made - - - -	*30th January 2009*
Coming into operation	*1st February 2009*

The Department of Enterprise, Trade and Investment makes the following Order in exercise of the powers conferred on it by Article 56(1) and Article 66(3) of the Energy (Northern Ireland) Order 2003(**1**).

Citation and commencement

1. This Order may be cited as the Energy (Amendment) Order (Northern Ireland) 2009 and shall come into operation on 1 February 2009.

Amendment of the Energy (Northern Ireland) Order 2003

2. For Articles 52 to 55 of the Energy (Northern Ireland) Order 2003 substitute—

"**Obligation in connection with electricity from renewable sources**

52.—(1) The Department may make a renewables obligation order.

(2) A renewables obligation order is an order which imposes the renewables obligation on each electricity supplier falling within a specified description (a "designated electricity supplier").

(3) The descriptions of electricity supplier upon which a renewables obligation order may impose the renewables obligation are those supplying electricity in Northern Ireland excluding such categories of supplier (if any) as are specified.

(4) The renewables obligation is that the designated electricity supplier must, by each specified day, have produced to the Authority the required number of renewables obligation certificates in respect of the amount of electricity supplied by him to customers in Northern Ireland during a specified period.

(**1**) S.I. 2003/419 (N.I.6): see Article 2(2) for the definition of "the Department" and see section 40(2) of the Energy Act 2008

(5) In this Part, "electricity supplier" means the holder of a licence under Article 10(1)(c) or (2) of the Electricity Order, except where he is acting otherwise than for the purposes connected with the carrying on of activities authorised by the licence.

(6) Paragraph (4) is subject to Articles 53 to 55F.

Further provision about the renewables obligation

53.—(1) A renewables obligation order may make provision generally in relation to the renewables obligation.

(2) A renewables obligation order may, in particular, specify—

(a) how the number of renewables obligation certificates required to be produced by an electricity supplier in respect of the amount of electricity supplied by him to customers in Northern Ireland during a specified period is to be calculated;

(b) different obligations for successive periods of time;

(c) that renewables obligation certificates issued in respect of electricity generated—

(i) using specified descriptions of renewable sources

(ii) by specified descriptions of generating stations

(iii) in specified ways, or

(iv) in other specified cases or circumstances,

are to count towards discharging an electricity supplier's obligation only up to a specified number, or a specified proportion, of the certificates required to be produced to discharge the obligation;

(d) that a specified number, or a specified proportion, of the renewables obligation certificates produced by an electricity supplier when discharging his renewables obligation must be certificates in respect of electricity generated—

(i) using specified descriptions of renewable sources,

(ii) by specified descriptions of generating station,

(iii) in specified ways, or

(iv) in other specified cases or circumstances;

(e) how the amount of electricity supplied by an electricity supplier to customers in Northern Ireland during a specified period is to be calculated;

(f) that specified information, or information of a specified nature, is to be given to the Authority;

(g) the form in which such information is to be given and the time by which it is to be given.

(3) A renewables obligation certificate may count once only towards the discharge of the renewables obligation.

(4) A renewables obligation order may, in relation to any specified period ("the current period")—

(a) provide that renewables obligation certificates in respect of electricity supplied in a later period may, when available, be counted towards discharging the renewables obligation for the current period;

(b) provide that renewables obligation certificates in respect of electricity supplied in the current period may, in a later period, be counted towards discharging the renewables obligation for that period;

(c) specify how much later the later period referred to in sub-paragraph (a) or (b) may be;

(d) specify a maximum proportion of the renewables obligation for any period which may be discharged as mentioned in sub-paragraph (a) or (b);

(e) specify a maximum proportion, or maximum number of, the renewables obligation certificates issued in respect of electricity supplied in any period which may be counted towards discharging the renewables obligation for a different period.

(5) For the purposes of paragraph (4) a certificate which certifies that electricity has been used in a permitted way (within the meaning of Article 54(7) and (8)) in a particular period is to be treated as if it were a certificate which certifies that electricity has been supplied in that period.

Renewables obligation certificates

54.—(1) A renewables obligation order may provide for the Authority to issue from time to time, in accordance with such criteria (if any) as are specified in the order, a certificate ("a renewable obligation certificate") to—

(a) the operator of a generating station in Northern Ireland

(b) an electricity supplier or a Great Britain supplier, or

(c) if the order so provides, a person of any other description specified in the order.

(2) A renewables obligation certificate is to certify—

(a) the matters within paragraph (3), or

(b) if the order provides that a certificate may certify the matters within paragraph (4), (5), or (6) the matters within that paragraph.

(3) The matters within this paragraph are—

(a) that the generating station, or, in the case of a certificate issued otherwise than to the operator of a generating station, or to a Great Britain supplier, a generating station in Northern Ireland specified in the certificate, has generated from renewable sources the amount of electricity stated in the certificate, and

(b) that it has been supplied by an electricity supplier to customers in Northern Ireland.

(4) The matters within this paragraph are—

(a) that two or more generating stations in Northern Ireland have, between them, generated from renewable sources the amount of electricity stated in the certificate, and

(b) that it has been supplied by an electricity supplier to customers in Northern Ireland.

(5) The matters within this paragraph are—

(a) that the generating station, or, in the case of a certificate issued otherwise than to the operator of a generating station, a generating station in Northern Ireland specified in the certificate, has generated from renewable sources the amount of electricity stated in the certificate, and

(b) that the electricity has been used in a permitted way.

(6) The matters within this paragraph are—

(a) that two or more generating stations in Northern Ireland have, between them, generated from renewable sources the amount of electricity stated in the certificate, and

(b) that the electricity has been used in a permitted way.

(7) For the purposes of paragraph (5) and (6), electricity generated by a generating station, or generating stations, of any description is used in a permitted way if—

(a) it is used in one of the ways mentioned in paragraph (8), and

(b) that way is specified in the order as a permitted way—

(i) in relation to all generating stations, or

(ii) in relation to generating stations of that description.

(8) Those ways are—

(a) being consumed by the operator of the generating station or generating stations by which it was generated;

(b) being supplied to customers in Northern Ireland through a private wire network;

(c) being provided to a

(i) transmission system or,

(ii) low voltage line or electrical plant used to convey electricity

located in Northern Ireland in circumstances in which its supply to customers in Northern Ireland cannot be demonstrated.

(d) being used, as respects part, as mentioned in one of sub-paragraph (a), (b) or (c) and as respects the remainder—

(i) as mentioned in one of the other sub-paragraphs, or

(ii) as respects part, as mentioned in one of the other sub-paragraphs and as respects the remainder as mentioned in the other;

(e) being used, as respects part, as mentioned in sub-paragraph (a), (b), (c) or (d) and as respects the remainder by being supplied by an electricity supplier to customers in Northern Ireland.

(9) For the purposes of paragraph (8)(b) electricity is supplied through a private wire network if it is conveyed to premises by a system which is used for conveying electricity from a generating station in circumstances where—

(a) the operator of the generating station is exempt from Article 8(1)(c) of the Electricity Order and is not an electricity supplier and

(b) the electricity is supplied to one or more customers—

(i) by the operator directly, or

(ii) by a person to whom the operator supplies the electricity, being a person who is exempt from Article 8(1)(c) of the Electricity Order and is not an electricity supplier.

(10) In paragraphs (1) to (9) "Northern Ireland" does not include any part of the territorial seas of the United Kingdom.

Article 54: supplemental provision

54A.—(1) A renewables obligation order may provide—

(a) that no renewables obligation certificates are to be issued in respect of electricity generated in specified cases or circumstances, or

(b) that renewables obligation certificates are to be issued in respect of a proportion only of the electricity generated in specified cases or circumstances.

(2) In particular, provision made by virtue of paragraph (1) may specify—

(a) electricity generated using specified descriptions of renewable sources,

(b) electricity generated by specified descriptions of generating station, or

(c) electricity generated in specified ways.

(3) Provision made by virtue of paragraph (1)(b) may include—

(a) provision about how the proportion is to be determined;

(b) provision about what, subject to such exceptions as may be specified, constitutes sufficient evidence of any matter required to be established for the purpose of determining that proportion;

(c) provision authorising the Authority, in specified circumstances, to require an operator of a generating station to arrange—

(i) for samples of any fuel used (or to be used) in the generating station, or of any gas or other substance produced as a result of the use of such fuel, to be taken by a person, and analysed in a manner, approved by the Authority, and

(ii) for the results of that analysis to be made available to the Authority.

(4) In the case of electricity generated by a generating station fuelled or driven—

(a) partly by renewable sources, and

(b) partly by fossil fuel (other than waste which constitutes a renewable source) or peat.

only the proportion attributable to the renewable sources is to be regarded as generated from such sources.

(5) A renewables obligation order may specify—

(a) how the proportion referred to in paragraph (4) is to be determined, and

(b) the consequences for the issuing of renewables obligation certificates if a generating station of the type mentioned in that paragraph uses more than a specified proportion of fossil fuel during a specified period.

(6) Those consequences may include the consequence that no certificates are to be issued in respect of any of the electricity generated by that generating station during that period.

(7) A renewables obligation order may specify circumstances in which the Authority may revoke a renewables obligation certificate before its production for the purposes of the renewables obligation.

(8) The provision that may be contained by virtue of this Article and Articles 54 and 54B in an order under Article 52 includes—

(a) provision for the person to whom a certificate is to be issued to be determined either before or after the supply of the electricity to which it relates; and

(b) provision for a determination as to the person to whom a certificate is to be issued to be made in accordance with such arrangements as may be specified in or determined under the order.

(9) In the case only of a certificate relating to electricity that has been acquired, or is required to be acquired, under a qualifying arrangement, the arrangements within paragraph (8)(b) that may be specified in or determined under the order include arrangements—