STATUTORY RULES OF NORTHERN IRELAND

2007 No. 104

ELECTRICITY

The Renewables Obligation Order (Northern Ireland) 2007

Made - - - - 21st February 2007
To be laid before Parliament under paragraph 7(3) of the Schedule to the Northern Ireland Act 2000

Coming into operation 1st April 2007

The Department of Enterprise, Trade and Investment makes the following Order in exercise of the powers conferred on it by Articles 52 to 55 and 66(3) of the Energy (Northern Ireland) Order 2003(**1**).

The Department has consulted the Northern Ireland Authority for Energy Regulation, the General Consumer Council for Northern Ireland, electricity suppliers to whom this Order applies, persons generating electricity from renewable sources in Northern Ireland and such other persons as it considers appropriate.

PART I

Introductory Provisions

Citation and commencement

1. This Order may be cited as the Renewables Obligation Order (Northern Ireland) 2007 and shall come into operation on 1 April 2007.

Interpretation

2.—(1) In this Order –

"the 2006 Order" means the Renewable Obligation Order (Northern Ireland 2006(**2**)

"accreditation" means accreditation as a generating station capable of generating electricity from eligible renewable sources;

"advanced conversion technologies" means gasification, pyrolysis or anaerobic digestion, or any combination thereof;

(**1**) S.I. 2003/419 (N.I.6); Articles 52 to 55 were amended by S.R. 2004 No. 524 and Article 54A was inserted by S.R. 2004 No. 524; Article 54 was amended by section 120 of the Energy Act 2004 (c.20); Articles 52, 53 and 54 were amended by SR2006 No 424

(**2**) S.R. 2006 No.56

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

"banking day" means a day on which banks are generally open in the City of London excluding Saturdays or Sundays;

"biomass" means fuel used in a generating station of which at least 90 per cent of the energy content (measured over such a period and with such frequency as the Authority deems appropriate) is derived from plant or animal matter or substances derived directly or indirectly therefrom (whether or not such matter or substances are waste) and includes agricultural, forestry or wood wastes or residues, sewage and energy crops (provided that such plant or animal matter is not or is not derived directly or indirectly from fossil fuel) provided that:

(i) this definition shall not include any substance that, at the time it is used as fuel in a generating station, is a fraction of any mixture of wastes that, taken as a whole, is not itself biomass; and

(ii) in determining any period over which and frequency with which measurement must take place for the purposes of this definition, the Authority may take into account such matters as it thinks fit, including the length of time for which the fuel has been used by the generating station or by other generating stations;

"CHPQA" means the Combined Heat and Power Quality Assurance Standard, Issue 1, November 2000 published by the Department of the Environment, Transport and the Regions(**3**);

"combined heat and power generating station" means a station producing electricity that is (or may be) operated for purposes including the supply to any premises of—

(i) heat produced in association with electricity; or

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

"commissioned" means the completion of a process of such procedures and tests as from time to time constitute usual industry standards and practices for commissioning a generating station in order to demonstrate that the generating station is capable of commercial operation;

"the Company" means Northern Ireland Electricity plc;

"connected person", in relation to an owner or operator of a generating station, or a party to a qualifying arrangement, means a person connected to him within the meaning of section 839 of the Income and Corporation Taxes Act 1988(**4**);

"declared net capacity" means the highest generation of electricity (calculated by adding together the highest generation of electricity at the main terminals of each alternator and dynamo) which, on the assumption that the source of power is available uninterruptedly, can be maintained indefinitely without causing damage to the plant less so much of that electricity as is consumed by the plant;

"designated electricity supplier" except where it appears for the second time in the definition of "renewables obligation" and where it appears in the definition of "Great Britain designated supplier", means any electricity supplier supplying electricity in Northern Ireland;

"the Electricity Act" means the Electricity Act 1989((**5**);

"eligible GBROC" means a GBROC that satisfies the conditions for eligibility set out in Schedule 1;

"eligible renewable sources" has the meaning given to it in Article 5;

(**3**) Available at http://www.chpqa.com
(**4**) 1988 c.1; section 839 was amended by the Finance Act 1995 (c.4), section 74 and Schedule 17, paragraph 20
(**5**) 1989 c.29

"energy content" of a fuel means the gross calorific value of that fuel (as expressed by weight or by volume) multiplied by the weight or volume of that fuel;

"energy crops" means a plant crop planted after 31st December 1989 which is grown primarily for the purpose of being used as fuel or which is one of the following—

(a) *miscanthus giganteus*

(b) *salix* (also known as short rotation coppice willow)

(c) *populus* (also known as short rotation coppice poplar)

"the Energy Order" means the Energy (Northern Ireland) Order 2003;

"gasification" means the substoichiometric oxidation or steam reformation of a substance to produce a gaseous mixture containing two or all of the following: oxides of carbon, methane and hydrogen;

"GBRO Order" means any order made pursuant to section 32 of the Electricity Act;

"GBROC" means a certificate issued by the Great Britain Authority under section 32B of the Electricity Act and pursuant to a GBRO Order and, save where the context otherwise requires, includes a replacement GBROC;

"GBROC identifier" means an identifier unique to a GBROC determined by the Great Britain Authority and containing the following information (or reference to that information in coded format)—

(i) the month and year during which the electricity was generated;

(ii) the location of the generating station;

(iii) a description of the generating station including reference to the source or sources of fuel used to generate electricity by that generating station;

(iv) the date of issue of the GBROC; and

(v) a number allocated to a GBROC by the Great Britain Authority in accordance with a GBRO Order;

"Great Britain Authority" means the Gas and Electricity Markets Authority;

"Great Britain designated supplier" means a designated electricity supplier within the meaning of a GBRO Order;

"hydro generating station" means a generating station which is wholly or mainly driven by water (other than a generating station driven by tidal flows, waves, ocean currents or geothermal sources) and the "generating station" extends to all turbines supplied by the same civil works, except that any turbine driven by a compensation flow supplied by those civil works where there is a statutory obligation to maintain such compensation flow in a natural water course shall be regarded as a separate hydro generating station;

"late payment period" in relation to an obligation period, means the period from the specified day in relation to that obligation period to the 31st October immediately following;

"licensed supplier" means an electricity supplier or an electricity supplier within the meaning of Part I of the Electricity Act;

"micro hydro generating station" means (except where it is used in paragraph 5 of Schedule 1) a hydro generating station which—

(i) has a declared net capacity of 1.25 megawatts or less;

(ii) has always been in private ownership and operation; and

(iii) has never generated electricity under an arrangement which has ever been a qualifying arrangement;

"NIROC" means a certificate issued by the Authority under Article 54 of the Energy Order and pursuant to this Order;

"NIROC identifier" has the meaning given to it in paragraph 2 of Schedule 3;

"NIROC sequence number" has the meaning given to it in article 21(1);

"Non-Fossil Fuel Order" means (except where it is used in Schedule 1) the Electricity (Non-Fossil Fuel Sources) Order (Northern Ireland) 1994(**6**); or the Electricity (Non-Fossil Fuel Sources) Order (Northern Ireland) 1996(**7**);

"obligation period" means any of the periods referred to in the first column of Schedule 2;

"particulars", in relation to a NIROC, has the meaning given to it in paragraph 2 of Schedule 3;

"plant", with reference to crops or plant matter, includes shrubs and trees;

"pyrolysis" means the thermal degradation of a substance in the absence of any oxidising agent (other than that which forms part of the substance itself) to produce char and one or both of gas and liquid;

"qualifying arrangement" means (except where used in paragraphs 14 to 21 of Schedule 1) an arrangement which was originally made pursuant to a Non-Fossil Fuel Order (and includes any replacement of such an arrangement where that replacement was made pursuant to an order made under Article 57 of the Energy Order);

"qualifying certificate" means a certificate issued pursuant to this Order and which relates to electricity generated from eligible renewable sources, or an eligible GBROC;

"qualifying combined heat and power generating station" means a combined heat and power generating station which is fuelled wholly or partly by waste and which has been accredited under CHPQA.

"Register" has the meaning given to it in Article 22(1);

"registered holder" has the meaning given to it in paragraph 2 of Schedule 3;

"renewables obligation" has the meaning given to it in Article 3 except where this term is referred to in Articles 28(5) and (6);

"replacement GBROC" means a GBROC issued in accordance with the provisions of a GBRO Order to replace another GBROC;

"replacement NIROC" means a NIROC issued in accordance with Article 23(4)(b) and (6);

"retail prices index" means—

(i) the general index of retail prices (for all items) published by the Office of National Statistics; or

(ii) where the index is not published for a year, any substituted index or figures published by that Office.

"specified day", in relation to an obligation period, means the 1st September immediately following it;

"total NIROC claim" means the total number of NIROCs which have been claimed in respect of a particular obligation period, after deducting—

(i) the number of NIROCs which have been issued in respect of that obligation period; and,

(ii) the number of NIROCs which the Authority has, in respect of that obligation period, decided not to issue or refused to issue under Article 17(2) or 17(3).

(**6**) S.R. 1994 No. 132
(**7**) S.R. 1996 No.407

"United Kingdom supplier" means a designated electricity supplier or a Great Britain designated supplier;

"waste" has the meaning given to it in Article 2(2) of the Waste and Contaminated Land (Northern Ireland) Order 1997(**8**), but does not include gas derived from landfill sites or gas produced from the treatment of sewage; and

the expression "the United Kingdom" includes the territorial sea of the United Kingdom and waters in any area designated under section 1(7) of the Continental Shelf Act 1964(**9**)

(2) For the purpose of this Order, any fuel used in a generating station (not being biomass) shall be treated as biomass if—

(a) it is one of at least two fuels (not being fossil fuels within the meaning of Article 8) used to fuel that generating station (whether or not those fuels are the only ones so used); and

(b) at least 90 per cent of the total energy content of those fuels (measured over such period and with such frequency as the Authority deems appropriate) is derived from material which is of such nature that, if 90 per cent of the energy content of a single fuel was so derived, that fuel would constitute biomass.

(3) In accordance with paragraph (2), any reference in this Order to biomass shall be construed as a reference to biomass or fuel which is treated as biomass.

(4) For the purposes of the definition of "hydro generating station", the "civil works" which are to be regarded as supplying a particular turbine ("the relevant turbine") are all the man-made weirs, man-made structures and man-made works for holding water which are located on the inlet side of the relevant turbine, but excluding any such weirs, structures or works which supply another turbine before water is supplied to the weirs, structures and works which supply the relevant turbine.

(5) Any reference in this Order to the provision of information "in writing" shall include the provision of such information by electronic mail, facsimile or similar means which are capable of producing a document containing the text of any communication.

(6) Any reference to this Order to the supply of electricity shall, in respect of a supply made in Northern Ireland, be construed in accordance with the definition of "supply" in Article 3 of the Electricity (Northern Ireland) Order 1992(**10**), and in respect of any other supply, be construed in accordance with the definition of "supply" in section 4(4) of the Electricity Act(**11**).

PART II

The Renewables Obligation

The renewables obligation

3.—(1) The renewables obligation is that, subject to Articles 10, 11, 12 and 13, each designated electricity supplier shall before each specified day produce to the Authority evidence showing—

(a) that he has supplied to customers in Northern Ireland during the obligation period to which the specified day relates such amount of electricity generated from eligible renewable sources as is determined under Article 4; or

(b) that another electricity supplier has done so (or that two or more others have done so); or

(**8**) S.I. 1997/278 (N.I.19)
(**9**) 1964 c.29. Section 1(7) of the Continental Shelf Act 1964 was amended by the Oil and Gas (Enterprise) Act 1982 (c.23), section 37 and schedule 3, paragraph 1.
(**10**) S.I. 1992/231 (N.I.1)
(**11**) The definition of "supply" in Section 4(4) of the Electricity Act was substituted by Section 28(1) and (3)(b) of the Utilities Act 2000, (c).27