STATUTORY RULES OF NORTHERN IRELAND

2005 No. 38

ELECTRICITY

Renewables Obligation Order (Northern Ireland) 2005

Made - - - - 11th February 2005
To be laid before Parliament under paragraph 7(3) of the Schedule to the Northern Ireland Act 2000

Coming into operation 1st April 2005

The Department of Enterprise, Trade and Investment, in exercise of the powers conferred on it by Articles 52 to 55 and 66(3) of the Energy (Northern Ireland) Order 2003(**1**) and of every other power enabling it in that behalf, and having 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, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Renewables Obligation Order (Northern Ireland) 2005 and shall come into operation on 1st April 2005.

Interpretation

2.—(1) In this Order –

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

"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 98 per cent of the energy content (measured over a period of one month) 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

(**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)

crops (provided that such plant or animal matter is not or is not derived directly or indirectly from fossil fuel);

"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(**2**);

"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(**3**);

"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 11;

"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 and grown primarily for the purpose of being used as fuel;

"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 the 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.

(**2**) 1988 c. 1; section 839 was amended by the Finance Act 1995 (c. 4), section 74 and Schedule 17, paragraph 20(b)
(**3**) 1989 c. 29

"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 following 30th November;

"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 a hydro generating station which:

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

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

(c) 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 4(9);

"Non-Fossil Fuel Order" means (except where it is used in Schedule 1) the Electricity (Non-Fossil Fuel Sources) Order (Northern Ireland) 1994(**4**); or the Electricity (Non-Fossil Fuel Sources) Order (Northern Ireland) 1996(**5**);

"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 15 and 16 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 that relates to electricity generated from eligible renewable sources, or an eligible GBROC;

"Register" has the meaning given to it in Article 4(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 15(5) and (6);

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

(**4**) S.R. 1994 No. 132
(**5**) S.R. 1996 No. 407

"replacement NIROC" means a NIROC issued in accordance with Article 5(3)(b) and (4);

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

"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(**6**), 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(**7**).

(2) 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.

(3) Any reference in this Order to 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.

(4) Any reference in 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(**8**), and in respect of any other supply, be construed in accordance with the definition of "supply" in section 4(4) of the Electricity Act(**9**).

The renewables obligation

3.—(1) The renewables obligation is that, subject to Articles 8, 9 and 10, 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 7; or

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

(c) that, between them, they have done so.

(2) The evidence referred to in paragraph (1) is NIROCs provided that such NIROCs relate to electricity generated from eligible renewable sources.

(3) A NIROC referred to in paragraph (2) shall be regarded as produced to the Authority as the evidence or part of the evidence required under paragraph (1) in respect of an obligation period where before the specified day relating to that period the Authority receives from the designated electricity supplier which holds the NIROC a notification in writing identifying the NIROC to be produced for that purpose and giving the NIROC identifier (as defined in paragraph 2 of Schedule 3).

(4) Without prejudice to paragraph (3), the Authority may draw up procedural guidelines for the production of NIROCs as the evidence or part of the evidence required under paragraph (1).

(**6**) S.I. 1997/278 (N.I. 19)
(**7**) 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.
(**8**) S.I. 1992/231 (N.I. 1)
(**9**) 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

(5) An electricity supplier has a renewables obligation in respect of an obligation period if he supplies electricity in Northern Ireland at any time during that period regardless of whether he supplies electricity in Northern Ireland for the whole of that period.

NIROCs

4.—(1) The Authority shall establish and maintain a register of NIROCs ("the Register") which shall be conclusive as to whether or not a NIROC subsists and as to the person who is for the time being its registered holder.

(2) Schedule 3 shall have effect with respect to the Register.

(3) A NIROC comprises a Register entry of its particulars and shall be regarded as being issued at the point when those particulars are entered in the Register by the Authority.

(4) In accordance with the provisions of Schedule 3, the Authority shall ensure that the Register contains, by way of entries made in it –

(a) an accurate record of the particulars of each NIROC as issued by the Authority (amended to reflect any change of registered holder which may occur) and which remains eligible to be produced as evidence pursuant to Article 3; and

(b) in addition to the record of the particulars of each NIROC, a list of the names of all persons who are either the registered holder of a NIROC or, although not at that time the registered holder of a NIROC, have notified the Authority that they wish an entry to be made and maintained in respect of them as prospective registered holders of NIROCs.

(5) Only the registered holder of a NIROC may use it as the evidence or as part of the evidence required from him under Article 3(1) and a NIROC may not be used by its registered holder or by any other person as the evidence or as part of the evidence required under Article 3(1) from any person other than the registered holder.

(6) The Authority shall not issue a NIROC in respect of any electricity generated by a particular generating station in a particular month if the Great Britain authority has previously issued a certificate under section 32B of the Electricity Act in respect of any such electricity and whether or not any such certificate previously issued has been revoked.

(7) Except as provided in paragraph (8), NIROCs (other than replacement NIROCs) shall be issued by the Authority to the operator of a generating station by which the relevant electricity was generated in a particular month where the Authority is satisfied that each of the relevant criteria in paragraph (10) is met.

(8) Where electricity is required to be generated by a generating station from eligible renewable sources under a qualifying arrangement or in compliance with such an arrangement to be made available to the Company ("the relevant output"), NIROCs (other than replacement NIROCs) appropriate to the amount of the relevant output generated in a particular month shall be issued by the Authority where it is satisfied that each of the relevant criteria in paragraph (10) is met to the licensed suppliers notified to the Authority by the Company as being purchasers of the entitlement to receive NIROCs in arrangements made by the Company pursuant to Article 6 and to each in such quantities as are appropriate to the entitlement which the Company notifies the Authority each has purchased (subject to the total amount of NIROCs available to be so issued).

(9) The Authority shall when issuing NIROCs (other than replacement NIROCs which shall be issued in accordance with Article 5(3)(b) and (4)) –

(a) allocate a number ("the NIROC sequence number") to each NIROC issued;

(b) allocate NIROC sequence numbers sequentially in ascending numerical order to all the NIROCs issued in respect of electricity generated from eligible renewable sources by a particular generating station in a particular month; and