STATUTORY RULES OF NORTHERN IRELAND

2004 No. 524

ELECTRICITY

Energy (Amendment) Order (Northern Ireland) 2004

Made - - - - *22nd December 2004*

To be laid before Parliament under paragraph 7(3) of the Schedule to the Northern Ireland Act 2000

Coming into operation *8th February 2005*

The Department of Enterprise, Trade and Investment, in exercise of the powers conferred on it by Article 56(1) of the Energy (Northern Ireland) Order 2003(**1**) and of every other power enabling it in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Energy (Amendment) Order (Northern Ireland) 2004 and shall come into operation on 8th February 2005.

Amendment of the Energy (Northern Ireland) Order 2003

2. The Energy (Northern Ireland) Order 2003 shall be amended in accordance with Articles 3 to 7.

Obligation in connection with electricity from renewable sources

3. In Article 52 (obligation in connection with electricity from renewable sources) –

(a) in paragraph (2), for "and 55" substitute "to 55" and for the words from "must" to "produce" substitute "must, by each specified day, have produced"; and,

(b) after paragraph (7) insert –

"(8) In this Article and in Articles 53 to 55 –

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

"Great Britain supplier" means an electricity supplier within the meaning of Part I of the Electricity Act 1989(**2**).".

(**1**) S.I. 2003/419 (N.I. 6); *see* Article 2(2) for the definition of "the Department"
(**2**) 1989 c. 29

Orders under Article 52: supplementary

4. In Article 53 (orders under Article 52: supplementary) –

(a) for paragraph (4) substitute –

"(4) An order may make –

(a) different provision for different cases or circumstances; and

(b) different provision in relation to different suppliers,

if the Department is of the opinion that no supplier would by virtue of the differences be unduly disadvantaged in competing with other suppliers.

(4A) In paragraph (4) "supplier" means an electricity supplier or a Great Britain supplier."; and

(b) in paragraph (8) for "obligation imposed" substitute "matters dealt with".

Green certificates

5. In Article 54 (green certificates) –

(a) in paragraph (1), for "or to an electricity supplier" substitute ", to an electricity supplier or to a Great Britain supplier"; and,

(b) in paragraph (2)(a), after "an electricity supplier" insert "or to a Great Britain supplier".

Use of green certificates issued in Great Britain

6. After Article 54 (green certificates) insert –

"**Use of green certificates issued in Great Britain**

54A.—(1) An order under Article 52 may provide that –

(a) in such cases as may be specified in the order, and

(b) subject to such conditions as may be so specified,

a designated electricity supplier may (to the extent provided for in accordance with the order) discharge his renewables obligation (or his obligation in relation to a particular period) by the production to the Authority of a Great Britain certificate.

(2) In this Article "Great Britain certificate" means a certificate issued by the Great Britain authority in accordance with provision included, by virtue of section 32B of the Electricity Act 1989, in an order under section 32 of that Act (renewables obligations for Great Britain suppliers).".

Payment as alternative to complying with order under Article 52

7. In Article 55 (payment as alternative to complying with order under Article 52) –

(a) in paragraph (1) for the words from "that" onwards substitute –

"(a) that a designated electricity supplier may (in whole or in part) discharge his renewables obligation by making a payment to the Authority before the day specified as the day by which evidence must be produced for the purposes of Article 52(2); and

(b) that a designated electricity supplier's renewables obligation that was not discharged in whole or in part before the day so specified is to be treated as having been discharged to the extent specified in the order where the payment

for which the order provides is made to the Authority before the end of such period beginning with that day as may be specified in the order.";

(b) in paragraph (2) –

(i) after sub-paragraph (a) insert –

"(aa) for the sums that must be paid in order for an obligation to be treated as having been discharged to increase at a rate specified in the order for each day after the time by which evidence had to be produced for the purposes of Article 52(2);"

(ii) in sub-paragraph (b), for "such sums" substitute "sums or rates falling within sub-paragraph (a) or (aa)";

(iii) in sub-paragraph (c), after "sums" insert "or rates"; and

(iv) in sub-paragraph (d), after "sum" insert "or rate";

(c) for paragraph (3) substitute –

"(2A) An order under Article 52 may provide that, where –

(a) a renewables obligation is one in relation to which provision made by virtue of paragraph (1)(b) applies in the case of the designated electricity supplier who is subject to the obligation, and

(b) the period ending with such day (after the day by which the obligation had to be complied with) as may be specified in or determined under the order has not expired,

the taking of steps under Article 45 in respect of a contravention by that supplier of that obligation is prohibited or otherwise restricted to the extent specified in the order.

(2B) An order under Article 52 may provide that, in a case in which the amount received by the Authority, or by the Great Britain authority, by way of discharge payments for a period falls short of the amount due in respect of that period, every person who –

(a) was subject to a renewables obligation for the relevant period or for a subsequent period specified in or determined under the order, and

(b) is of a description so specified or determined,

must, by the time and in the circumstances so specified or determined, make a payment (or further payment) to the Authority of an amount calculated in the manner so specified or determined.

(2C) An order under Article 52 may not by virtue of paragraph (2B) confer an entitlement on the Authority to receive a payment in respect of the shortfall for any period –

(a) in the case of a shortfall in the amount received by the Authority, if the receipt of the payment is to be while a prohibition or restriction by virtue of paragraph (2A) applies, in one or more cases, to the taking of steps in relation to contraventions of renewables obligations for that period; or

(b) in the case of a shortfall in the amount received by the Great Britain authority, if the receipt of the payment is to be while a prohibition or restriction by virtue of a corresponding provision having effect in Great Britain applies, in one or more cases, to the taking of steps in relation to contraventions of Great Britain obligations for that period.

(2D) The provision that may be made by virtue of paragraph (2B) includes –