STATUTORY RULES OF NORTHERN IRELAND

2003 No. 470

ELECTRICITY

Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations (Northern Ireland) 2003

Made - - - -	*4th November 2003*
Coming into operation	*25th November 2003*

The Department of Enterprise, Trade and Investment, being a department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to the regulation of the electricity sector, in exercise of the powers conferred on it by that section and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations (Northern Ireland) 2003 and shall come into operation on 25th November 2003.

Interpretation

2.—(1) In these Regulations –

"the Authority" means the Northern Ireland Authority for Energy Regulation established under Article 3 of the Energy (Northern Ireland) Order 2003(**3**);

"biomass" means the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste;

"the Company" means Northern Ireland Electricity plc;

"competent authority" means –

(a) the Authority; and

(**1**) S.I. 1998/745
(**2**) 1972 c. 68
(**3**) S.I. 2003/419 (N.I. 6)

(b) any Northern Ireland Minister, Minister of the Crown government department, public body of any description or person holding a public office;

"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;

"the Directive" means Directive 2001/77/EC of the European Parliament and of the Council of 27th September 2001 on the promotion of electricity from renewable energy sources in the internal electricity market(**4**);

"electricity produced from renewable energy sources" means –

(a) electricity produced by a plant which produces electricity derived only from renewable energy sources;

(b) in the case of a plant which produces electricity derived from both renewable and other energy sources, the proportion of electricity derived from renewable energy sources,

and shall include electricity which is used for filling storage systems, but not electricity produced as a result of such filling of storage systems;

"government department" includes a department of the Government of the United Kingdom;

"guarantee of origin" means, except in relation to regulations 9(2) to (5) and (so far as it relates to guarantees of origin issued in another Member State or Great Britain) 9(6), a certificate issued by the Authority certifying that the electricity in respect of which the certificate is issued was electricity produced from renewable energy sources;

"guarantee sequence number" has the meaning given by regulation 7(4);

"levy exemption certificate" has the same meaning as in regulation 48 of the Climate Change Levy (General) Regulations 2001(**5**);

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975(**6**);

"non-Northern Ireland authority" means –

(a) a Member State other than the United Kingdom; or

(b) a body or person in Great Britain or in another Member State corresponding to a competent authority;

"Northern Ireland Ministers" includes the First Minister and the Deputy First Minister;

"qualifying arrangement" means an arrangement made pursuant to the Electricity (Non-Fossil Fuel Sources) Order (Northern Ireland) 1994(**7**) or the Electricity (Non-Fossil Fuel Sources) Order (Northern Ireland) 1996(**8**);

"recognise", in relation to a guarantee of origin, means to recognise in accordance with Article 5 of the Directive as proof of the matters referred to in paragraph 3 of that Article;

"the Register" means the register established by the Authority under regulation 7(1);

(**4**) O.J. No. L283, 27.10.2001, p. 33
(**5**) S.I. 2001/838 ; relevant amending instrument is S.I. 2003/604
(**6**) 1975 c. 26
(**7**) S.R. 1994 No. 132
(**8**) S.R. 1996 No. 407

"registered holder", in relation to a guarantee of origin, means the person whose name is shown on the Register in accordance with paragraph 2(a) of Schedule 2 as the last person to whom that guarantee of origin has been transferred or, where there is no person so shown, the person whose name is shown on the Register under paragraph 1(a) of that Schedule as the person to whom the guarantee of origin has been issued;

"registered particulars" means the information entered on the Register, as specified in paragraph 1 of Schedule 2, in relation to a guarantee of origin;

"renewable energy sources" means renewable non-fossil energy sources, that is, wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;

"storage system" means a system for the storage of water or any other substance intended for use in the production of electricity produced from renewable energy sources.

(2) Words and phrases used in these Regulations shall have the same meaning as in the Directive.

(3) Any reference in these Regulations 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 and any reference to certificates or other documents shall be construed as including a reference to such certificates or other documents in electronic form.

(4) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Designation of the Authority as the issuer of guarantees of origin

3. Guarantees of origin shall be issued by the Authority in accordance with the provisions of these Regulations.

Request for issue of guarantees of origin and information required

4.—(1) The issue of guarantees of origin may be requested –

(a) in respect of electricity which has been purchased under a qualifying arrangement by the Company, only by the Company, unless it has notified the Authority that it does not intend to request such issue in respect of that electricity, in which case only the producer of the electricity may request such issue; and

(b) in respect of any other electricity, only by the producer of that electricity.

(2) No request for the issue of guarantees of origin may be made under paragraph (1) in respect of electricity produced outside Northern Ireland.

(3) No request for the issue of guarantees of origin may be made under paragraph (1) in respect of a period of less than one month.

(4) A request under paragraph (1) shall be made to the Authority, and shall not be considered duly made until the Authority has been provided with all the information and evidence specified in Schedule 1.

(5) A request under paragraph (1) shall be accompanied by a statement signed by the person making the request (or, if the person making the request is a body corporate, by a representative of that body) that –

(a) the person making the request is entitled under these Regulations to the issue of guarantees of origin in respect of the electricity which is the subject of the request; and

(**9**) 1954 c. 33 (N.I.)

(b) that the person making the request has not made, and does not intend to make, a request in another Member State or Great Britain for the issue of guarantees of origin in respect of the same electricity.

(6) A request may only be made under paragraph (1) in respect of electricity produced on or after 27th October 2003.

(7) A request for the issue of guarantees of origin received by the Authority before the coming into operation of these Regulations shall, provided that the request meets the requirements of paragraphs (2) to (6), be treated by the Authority as if it were a request made under paragraph (1).

Access to a plant

5. Where –

(a) the Authority requests access to a plant pursuant to the exercise of its functions under these Regulations; and

(b) any person unreasonably fails or refuses to provide such access, or to provide the Authority with all relevant information and assistance that it may reasonably require for the purposes for which access has been requested,

the Authority may refuse to issue guarantees of origin in respect of any electricity produced by that plant in respect of which it has not already issued guarantees of origin.

Issue and transfer of guarantees of origin

6.—(1) Without prejudice to regulation 5, where the Authority has received a request for the issue of guarantees of origin which has been duly made in accordance with these Regulations, it shall issue guarantees of origin in respect of so much (but no more) of the electricity to which the request relates as the Authority is satisfied was electricity produced from renewable energy sources.

(2) Where it issues guarantees of origin under paragraph (1) the Authority shall issue guarantees of origin to the person making the request or to such other person as the person making the request may direct.

(3) One guarantee of origin shall be issued in respect of each kilowatt hour of electricity produced from renewable energy sources (rounding upwards or downwards to the nearest whole kilowatt hour, and with any exact half kilowatt hour being rounded upwards).

(4) Where a guarantee of origin has been issued and has not been revoked, no further guarantee of origin in respect of the electricity to which the guarantee relates shall be issued.

(5) If the registered holder of a guarantee of origin requests the Authority to transfer that guarantee of origin to any other person, the Authority shall do so by amending the Register accordingly.

Guarantees of origin and the Register

7.—(1) The Authority shall –

(a) establish and maintain a Register, which may be in electronic form, and which shall contain the information set out in Schedule 2; and

(b) publish that information on its website or by such other means as it considers appropriate.

(2) The Register shall be conclusive as regards whether a guarantee of origin subsists and as to the person who is for the time being its registered holder.

(3) A guarantee of origin shall comprise its registered particulars, and shall be regarded as being issued when those particulars are entered in the Register by the Authority.

(4) The Authority shall when issuing guarantees of origin –