STATUTORY RULES OF NORTHERN IRELAND

2006 No. 56

ELECTRICITY

Renewables Obligation Order (Northern Ireland) 2006

Made - - - - 16th February 2006
To be laid before Parliament under paragraph 7(3) of the Schedule to the Northern Ireland Act 2000

Coming into force - - 1st April 2006

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 1

INTRODUCTORY PROVISIONS

Citation and commencement

1. This Order may be cited as the Renewables Obligation Order (Northern Ireland) 2006 and shall come into operation on 1st April 2006.

Interpretation

2.—(1) In this Order—

"the 2005 Order" means the Renewables Obligation Order (Northern Ireland) 2005(**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)
(**2**) S.R 2005 No. 38

"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:

(a) 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

(b) 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—

(a) heat produced in association with electricity; or

(b) 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 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 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—

(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 18(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 16 to 23 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 19(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 22(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 20(4)(b) and (5);

"retail prices index" means—

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

(b) 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—

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

(b) the number of NIROCs which the Authority has, in respect of that obligation period, decided not to issue or refused to issue under Article 16(2) or 16(3).

"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

(**6**) S.R. 1994 No. 132
(**7**) S.R. 1996 No. 407
(**8**) S.I. 1997/278 (N.I. 19)

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 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 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.

(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(**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 2

THE RENEWABLES OBLIGATION

The renewables obligation

3.—(1) The renewables obligation is that, subject to Articles 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

(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.

(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).

(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.

(**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