

*Draft Order laid before Parliament under section 32L(2) of the Electricity Act 1989 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2015 No. 0000**

**ELECTRICITY, ENGLAND AND WALES**

**The Renewables Obligation Order 2015**

*Made - - - - 2015*

*Coming into force in accordance with article 1*

This Order is made by the Secretary of State in exercise of the powers conferred by sections 32 to 32K, 32LA and 32M of the Electricity Act 1989(1) (“the 1989 Act”) and section 2(2) of the European Communities Act 1972(2) (“the 1972 Act”) (as read with paragraph 1A of Schedule 2 to the 1972 Act)(3).

The Secretary of State is a Minister designated for the purposes of section 2(2) of the 1972 Act in relation to energy and energy sources(4).

This Order makes provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Secretary of State that it is expedient for the references to Annex 5 to [Directive 2009/28/EC](#) of the European Parliament and of the Council on the promotion of the use of energy from renewable sources(5) in article 83 of and Schedules 1 and 3 to this Order to be construed as references to Annex 5 to that Directive as amended from time to time.

The Secretary of State has consulted the Gas and Electricity Markets Authority, the National Association of Citizens Advice Bureaux, the Scottish Association of Citizens Advice Bureaux(6), electricity suppliers to whom this Order applies and such generators of electricity from renewable sources and other persons as the Secretary of State considered appropriate in accordance with section 32L(1) of the 1989 Act.

In exercising the power to make provision under section 32D(1) of the 1989 Act, the Secretary of State has had regard to the matters specified in section 32D(4).

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- (1) [1989 c.29](#), sections 32 to 32M were substituted by section 37 of the Energy Act [2008 \(c.32\)](#) for sections 32 to 32C. Section 32M(1) was amended by article 2 of [S.I. 2011/984](#) and section 55(2) of the Energy Act [2013 \(c.32\)](#) and section 32LA was inserted together with section 32LB by section 55(1) of that Act.
- (2) [1972 c.68](#). Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act [2006 \(c.51\)](#) and Part 1 of the Schedule to the European Union (Amendment) Act [2008 \(c.7\)](#).
- (3) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and was amended by article 3 of [S.I. 2007/1388](#) and Part 1 of the Schedule to the European Union (Amendment) Act 2008.
- (4) Article 6 of [S.I. 2010/761](#).
- (5) OJ No L 140, 5.6.2009, p16.
- (6) Section 32L(1) of the 1989 Act refers to “the Authority”, “Citizens Advice” and “Citizens Advice Scotland”. These are defined in section 111(1) of the 1989 Act, as inserted by paragraph 40(a) of Schedule 6 to the Utilities Act [2000 \(c.27\)](#) and paragraph 5(20) of Schedule 1 to [S.I. 2014/631](#).

In accordance with section 32L(2) of the 1989 Act, and paragraph 2(2) of Schedule 2 to the 1972 Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Accordingly the Secretary of State makes the following Order:

## PART 1

### Introductory provisions

#### Citation, commencement and extent

1.—(1) This Order may be cited as the Renewables Obligation Order 2015.

(2) Subject to paragraph (3), this Order comes into force on the first day of the month following that in which it is made.

(3) Articles 45(4)(d) and (5)(a) and 48 come into force on the first day of the second month following that in which this Order is made.

(4) Subject to paragraph (5), this Order extends to England and Wales only.

(5) Article 97 also extends to Scotland.

#### Interpretation

2.—(1) In this Order—

“the Act” means the Electricity Act 1989(7);

“2009 Order” means the Renewables Obligation Order 2009(8);

“2013/14 capacity” means—

(a) in relation to a generating station accredited on or before 31st March 2013, any capacity which, in the Authority’s view—

(i) forms part of the station from a date no earlier than 1st April 2013 and no later than 31st March 2014, and

(ii) does not form part of the original capacity of the station,

(b) in relation to a grace period generating station, any capacity which, in the Authority’s view—

(i) forms part of the station from a date no later than 31st March 2014, and

(ii) does not form part of the original capacity of the station,

(c) in relation to a generating station which—

(i) was not accredited on or before 31st March 2013,

(ii) was accredited on or before 31st March 2014, and

(iii) is not a grace period generating station,

the original capacity of the station, together with any additional capacity which, in the Authority’s view, forms part of the station from a date no later than 31st March 2014;

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(7) 1989 c.29.

(8) S.I. 2009/785, amended by S.I. 2010/1107, 2011/984, 2011/988, 2013/768 and 2014/893.

“2013/15 capacity” means any capacity which is 2013/14 capacity or 2014/15 capacity;

“2014/15 capacity” means—

- (a) in relation to a generating station accredited on or before 31st March 2014, any capacity which, in the Authority’s view—
  - (i) forms part of the station from a date no earlier than 1st April 2014 and no later than 31st March 2015, and
  - (ii) does not form part of the original capacity of the station,
- (b) in relation to a generating station which—
  - (i) was not accredited on or before 31st March 2014, and
  - (ii) was accredited on or before 31st March 2015,the original capacity of the station, together with any additional capacity which, in the Authority’s view, forms part of the station from a date no later than 31st March 2015;

“2015/16 capacity” means—

- (a) in relation to a generating station accredited on or before 31st March 2015, any capacity which, in the Authority’s view—
  - (i) forms part of the station from a date no earlier than 1st April 2015 and no later than 31st March 2016, and
  - (ii) does not form part of the original capacity of the station,
- (b) in relation to a generating station which—
  - (i) was not accredited on or before 31st March 2015, and
  - (ii) was accredited on or before 31st March 2016,the original capacity of the station, together with any additional capacity which, in the Authority’s view, forms part of the station from a date no later than 31st March 2016;

“accreditation”, in relation to a generating station, means accreditation of the station as one which is capable of generating electricity from renewable sources by the Authority or the Northern Ireland authority (and includes an accreditation granted before this Order came into force);

“accredited” is to be construed in accordance with the definition of “accreditation”;

“advanced fuel” means a liquid or gaseous fuel which is produced directly or indirectly from the gasification or the pyrolysis of—

- (a) waste, or
- (b) biomass;

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

“ancillary purposes”, in relation to fossil fuel or waste used in a combustion unit or by a generating station, means fossil fuel or waste which is used in that combustion unit or by the station for—

- (a) cleansing other fuels from the station’s combustion system prior to using fossil fuel or waste to heat the combustion system to its normal temperature,
- (b) the heating of the station’s combustion system to its normal operating temperature or the maintenance of that temperature,
- (c) the ignition of fuels of low or variable calorific value,
- (d) corrosion control,

- (e) emission control,
- (f) fouling reduction, or
- (g) standby generation or the testing of standby generation capacity (where “standby generation” means the generation of electricity by equipment which is not used frequently or regularly to generate electricity and where all the electricity generated by that equipment is used by the generating station);

“animal excreta” means excreta produced by animals and includes biomass wholly derived from excreta produced by animals;

“biomass” is to be construed in accordance with article 3, except for the purposes of article 95;

“biomaterial” means the biodegradable part of—

- (a) products, waste and residues of biological origin resulting from agriculture (including vegetal and animal substances), forestry and related industries (including fisheries and aquaculture), and
- (b) industrial, commercial and municipal waste;

“BS EN 15359:2011” means the document identified by Standard Number BS EN:15359:2011 and entitled “Solid recovered fuels. Specifications and classes” published by the British Standards Institution on 30th November 2011(9);

“BS EN 15402:2011” means the document identified by Standard Number BS EN 15402:2011 and entitled “Solid recovered fuels. Determination of the content of volatile matter” published by the British Standards Institution on 31st March 2011(10);

“BS EN 15415-1:2011” means the document identified by Standard Number BS EN 15415-1:2011 and entitled “Solid recovered fuels. Determination of particle size distribution. Screen method for small dimension particles” published by the British Standards Institution on 30th September 2011(11);

“BS EN 15590:2011” means the document identified by Standard Number BS EN 15590:2011 and entitled “Solid recovered fuels. Determination of the current rate of aerobic microbial activity using the real dynamic respiration index” published by the British Standards Institution on 30th September 2011(12);

“CFD” has the meaning given in section 6(2) of the Energy Act 2013(13);

“CHPQA” means the Combined Heat and Power Quality Assurance Standard, Issue 5 published by the Department of Energy and Climate Change in November 2013 and Guidance Note 44 (Use of CHPQA to obtain support for electrical output from renewable CHP under the renewables obligation), Issue 4, published by the Department of Energy and Climate Change in December 2013(14);

“CHP station” means a station which generates electricity and 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;

“civil works”, in relation to a hydro generating station, means all man-made structures, and man-made works for holding water which are located on the inlet side of a turbine (“turbine

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(9) ISBN 978 0 580 67493 8. Copies can be obtained from the British Standards Institution: [www.bsi-global.com/en/](http://www.bsi-global.com/en/).

(10) ISBN 978 0 580 68165 3. Copies can be obtained from the British Standards Institution: [www.bsi-global.com/en/](http://www.bsi-global.com/en/).

(11) ISBN 978 0 580 71118 3. Copies can be obtained from the British Standards Institution: [www.bsi-global.com/en/](http://www.bsi-global.com/en/).

(12) ISBN 978 0 580 69390 8. Copies can be obtained from the British Standards Institution: [www.bsi-global.com/en/](http://www.bsi-global.com/en/).

(13) 2013 c.32.

(14) These documents can be obtained via the Department of Energy and Climate Change pages of the GOV.UK website at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/335471/CHPQAStandardIssue5.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335471/CHPQAStandardIssue5.pdf) and [https://www.chpqa.com/guidance\\_notes/GUIDANCE\\_NOTE\\_44.pdf](https://www.chpqa.com/guidance_notes/GUIDANCE_NOTE_44.pdf).

A”), excluding any such structures or works which supply another turbine before water is supplied to the structures and works which supply turbine A;

“combustion unit” means a boiler, turbine or engine;

“commissioned”, in relation to a generating station, means the completion of such procedures and tests in relation to that station as constitute, at the time they are undertaken, the usual industry standards and practices for commissioning that type of generating station in order to demonstrate that that generating station is capable of commercial operation;

“connected person”, in relation to the owner or operator of a generating station, or any party to a NFFO arrangement, means any person connected to that owner, operator or party within the meaning of section 1122 of the Corporation Tax Act 2010<sup>(15)</sup>;

“declared net capacity”, in relation to a generating station, means the maximum capacity at which the station could be operated for a sustained period without causing damage to it (assuming the source of power used by it to generate electricity was available to it without interruption) less the amount of electricity that is consumed by the station;

“delivery body” means—

- (a) the person operating the national transmission system for Great Britain (“the national system operator”), or
- (b) if the national system operator’s functions under Chapter 2 of Part 2 of the Energy Act 2013<sup>(16)</sup> have been transferred to an alternative delivery body, that body;

“designated electricity supplier” has the meaning given by article 7(1);

“energy content”, in relation to any substance, means the energy contained within that substance (whether measured by a calorimeter or determined in some other way) expressed in terms of the substance’s gross calorific value within the meaning of British Standard BS 7420:1991 (Guide for determination of calorific values of solid, liquid and gaseous fuels (including definitions)) published by the British Standard Institute on 28th June 1991<sup>(17)</sup>;

“energy crops” means—

- (a) a perennial crop planted at high density, the stems of which are harvested above ground level at intervals of less than twenty years and which is one of the following—
  - (i) *Acer pseudoplatanus* (also known as sycamore),
  - (ii) *Alnus* (also known as alder),
  - (iii) *Betula* (also known as birch),
  - (iv) *Castanea sativa* (also known as sweet chestnut),
  - (v) *Corylus avellana* (also known as hazel),
  - (vi) *Fraxinus excelsior* (also known as ash),
  - (vii) *Populus* (also known as poplar),
  - (viii) *Salix* (also known as willow),
  - (ix) *Tilia cordata* (also known as small-leaved lime); or
- (b) a perennial crop which is one of the following—
  - (i) *Arundo donax* (also known as giant reed),
  - (ii) *Bambuseae*, where the crop was planted after 31st December 1989 and is grown primarily for the purpose of being used as fuel,

<sup>(15)</sup> 2010 c.4.

<sup>(16)</sup> 2013 c.32.

<sup>(17)</sup> ISBN 0580194825. Copies can be obtained from the British Standards Institution: [www.bsi-global.com/en/](http://www.bsi-global.com/en/).

- (iii) Miscanthus,
- (iv) Panicum,
- (v) Pennisetum (other than Pennisetum setaceum (also known as fountain grass), Pennisetum clandestinum (also known as kikuyu grass) and Pennisetum villosum (also known as feathertop grass)),
- (vi) Phalaris;

“excluded capacity” has the meaning given in article 45;

“feed-in tariff scheme” means a scheme of financial incentives which the Secretary of State establishes, or for the administration of which the Secretary of State makes arrangements, in exercise of the power in section 41(1) of the Energy Act 2008<sup>(18)</sup>;

“fossil derived bioliquid” means bioliquid produced directly or indirectly from—

- (a) coal,
- (b) lignite,
- (c) natural gas (within the meaning of the Energy Act 1976<sup>(19)</sup>),
- (d) crude liquid petroleum, or
- (e) petroleum products (within the meaning of the Energy Act 1976);

“forest” means land of an area more than one hectare which includes trees providing a tree canopy cover of at least 20%;

“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;

“grace period generating station” has the meaning given by article 6;

“greenhouse gas criteria” means—

- (a) in the case of bioliquid, the criteria set out in Schedule 1,
- (b) in all other cases, the criteria set out in Part 1 of Schedule 2;

“hydro generating station” means a generating station driven by water (other than a generating station driven by tidal flows, waves, ocean currents or geothermal sources) and includes all turbines supplied with water by or from the same civil works, except any turbine driven by a compensation flow supplied by or from those civil works in a natural water course where there is a statutory obligation to maintain that compensation flow in that water course (in which case that turbine and associated infrastructure is to be regarded as a separate hydro generating station);

“interconnector” means so much of an electric line or other electric plant as subsists wholly or primarily for the purposes of the conveyance of electricity between a transmission or distribution system in Great Britain and an equivalent system in another country (including Northern Ireland);

“investment contract” has the meaning given in paragraph 1 of Schedule 2 to the Energy Act 2013<sup>(20)</sup>;

“ISAE 3000” means the International Standard on Assurance Engagements 3000 Revised, Assurance Engagements Other than Audits or Reviews of Historical Financial Information<sup>(21)</sup> published by the International Federation of Accountants;

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<sup>(18)</sup> 2008 c.32. Section 41 has been amended by section 146 of the Energy Act 2013 (c.32).

<sup>(19)</sup> 1976 c.76.

<sup>(20)</sup> 2013 c.32.

<sup>(21)</sup> 9th December 2013, ISBN 9781608151677. Copies can be obtained from the International Federation of Accountants: [www.ifac.org](http://www.ifac.org).

“land criteria” means the criteria set out in Schedule 3;

“landfill” has the meaning given by Article 2(g) of Council [Directive 1999/31/EC](#) on the landfill of waste**(22)**;

“landfill gas” means gas formed by the digestion of material in a landfill;

“linked person”, in relation to a person who is a party to a NFFO arrangement (“the first person”), means another person who has given or who has arranged to give to the first person or has ensured or arranged to ensure that the first person is given, a financial or other inducement relating to any right or interest in, or in respect of, the construction or operation of a generating station at the location;

“microgenerator” means a generating station which has a declared net capacity of 50 kilowatts or less;

“municipal waste” has the same meaning as in section 21 of the Waste and Emissions Trading Act 2003**(23)**;

“NFFO arrangement” means 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 section 67 of the Utilities Act 2000**(24)**);

“NIRO Order” means any order made under Articles 52 to 55F of the Energy (Northern Ireland) Order 2003**(25)**;

“Non-Fossil Fuel Order” means any of the following Orders—

- (a) the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1997**(26)**, and
- (b) the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1998**(27)**;

“Northern Ireland certificate” means a renewables obligation certificate issued by the Northern Ireland authority under the Energy (Northern Ireland) Order 2003 and pursuant to a NIRO Order;

“obligation period” means the period starting on 1st April 2016 and ending on 31st March 2017 or any subsequent period of 12 months (ending with the period of 12 months ending on 31st March 2037), except for the purposes of article 95;

“offshore”, in relation to a generating station which generates electricity from wind, means a generating station which—

- (a) has its wind turbines situated wholly in offshore waters, and
- (b) is not connected to dry land by means of a permanent structure which provides access to land above the mean low water mark;

“offshore waters” means—

- (a) waters in or adjacent to the United Kingdom which are between the mean low water mark and the seaward limits of the territorial sea, and
- (b) waters within an area designated under section 1(7) of the Continental Shelf Act 1964**(28)**;

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**(22)** OJ No L 182, 16.7.1999, p1.

**(23)** [2003 c.33](#). Section 21 has been amended by regulation 6 of [S.I. 2011/2499](#).

**(24)** [2000 c.27](#). Section 67(1)(c) was amended by section 39 of the Energy Act 2008 ([c.32](#)).

**(25)** [S.I. 2003/419 \(N.I.6\)](#). Articles 52 to 55F were substituted by article 2 of the Energy (Amendment) Order (Northern Ireland) 2009 ([S.R. \(NI\) 2009 No 35](#)).

**(26)** [S.I. 1997/248](#).

**(27)** [S.I. 1998/2353](#).

**(28)** [1964 c.29](#).

“offshore wind turbine” means a wind turbine which forms part of a generating station which is offshore;

“on land”, in relation to the location of a generating station, means wholly or partly on land above mean high water level;

“original capacity”, in relation to a generating station, means the generating capacity of the station as accredited;

“permitted ancillary purposes” means—

- (a) in relation to fossil fuel or waste used in a combustion unit, the use of fossil fuel or waste—
  - (i) in the combustion unit for ancillary purposes, and
  - (ii) in a month in which the energy content of the fossil fuel or waste so used (or, where both are so used, their combined energy content) does not exceed 10% of the energy content of all the energy sources used in the combustion unit to generate electricity during that month,
- (b) in relation to fossil fuel or waste used by a generating station, the use of fossil fuel or waste—
  - (i) by the station for ancillary purposes, and
  - (ii) in a month in which the energy content of the fossil fuel or waste so used (or, where both are so used, their combined energy content) does not exceed 10% of the energy content of all the energy sources used by the station to generate electricity during that month;

“permitted termination event”, in relation to an investment contract, means—

- (a) a delay in the approval of the investment contract by the European Commission,
- (b) a refusal by the European Commission to approve the investment contract,
- (c) a condition attached by the European Commission to its approval of the investment contract, or
- (d) a judgment of the Court of Justice of the European Union that invalidates an approval of the investment contract by the European Commission;

“plant”, with reference to plant matter, includes shrubs and trees;

“post-2016 capacity” means—

- (a) in relation to a generating station accredited on or before 31st March 2016, any capacity which, in the Authority’s view—
  - (i) forms part of the station from a date no earlier than 1st April 2016, and
  - (ii) does not form part of the original capacity of the station,
- (b) in relation to a generating station which—
  - (i) is accredited, and
  - (ii) was not accredited on or before 31st March 2016,the original capacity of the station, together with any additional capacity which, in the Authority’s view, forms part of the station;

“pre-2013 capacity” means—

- (a) in relation to a generating station accredited on or before 31st March 2013, the original capacity of the station, together with any additional capacity, which in the Authority’s view, forms part of the station from a date no later than 31st March 2013,
- (b) in relation to a grace period generating station, the original capacity of the station;



“preliminary accreditation”, in relation to a generating station, means accreditation of the station as one which (when commissioned) will be capable of generating electricity from renewable sources by the Authority or the Northern Ireland authority (and includes a preliminary accreditation granted before this Order came into force);

“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 CHP station” means a CHP station which has been certified under the CHPQA;

“qualifying power output”, in relation to a qualifying CHP station, has the meaning given to it in the CHPQA;

“qualifying proportion”, in relation to electricity generated by a qualifying CHP station, is the proportion which the qualifying power output of the station bears to its total power output;

“Register” has the meaning given to it in article 93(1);

“registered holder” has the meaning given to it in paragraph 3 of Schedule 4;

“Renewables Directive” means [Directive 2009/28/EC](#) of the European Parliament and of the Council on the promotion of the use of energy from renewable sources, and in article 83 and Schedules 1 and 3 references to Annex 5 to the Renewables Directive are to Annex 5 as amended from time to time;

“renewables obligation” has the meaning given to it in article 7(1), except for the purposes of article 95;

“renewable waste” means waste of which not more than 90% is waste which is, or is derived from, fossil fuel;

“ROC” means a renewables obligation certificate issued by the Authority under this Order (or under the 2009 Order);

“RO capacity”, in relation to a generating station, means the generating capacity of the station other than excluded capacity;

“RO eligible renewable output” is to be construed in accordance with articles 29 and 30;

“RO input electricity” has the meaning given to it in article 26;

“RO output electricity” has the meaning given to it in article 27;

“sewage gas” means gas formed by the anaerobic digestion of sewage (including sewage which has been treated or processed);

“Solid Recovered Fuel” means solid fuel which—

- (a) complies with the classification and specification requirements in BS EN:15359:2011,
- (b) is prepared from a waste which is not a hazardous waste (where hazardous waste has the meaning given in Article 3(2) of [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste(29)),
- (c) has a maximum rate of oxygen uptake of no more than 1500 milligrams of oxygen per kilogram of volatile solids per hour when measured using the real dynamic respiration test specified in BS EN 15590:2011, and
- (d) when subject to a methodology for the determination of particle size in accordance with BS EN 15415-1:2011, is able to pass through an opening measuring no more than 150 millimetres in all dimensions;

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

“total input electricity”, in relation to a generating station, means—

- (a) the total amount of electricity used by the station for purposes directly related to its operation (including for fuel handling, fuel preparation, maintenance and the pumping of water) whether or not that electricity is generated by the station or used while the station is generating electricity, and
- (b) where the station generates electricity wholly or partly from hydrogen (other than hydrogen that constitutes fossil fuel), any electricity—
  - (i) in respect of which ROCs are or have been issued,
  - (ii) in respect of which ROCs cannot be issued by virtue of any provision of Part 7, or
  - (iii) which was not generated from renewable sources,
 and which is used in the production of that hydrogen (regardless of where or by whom the hydrogen is produced);

“total installed capacity”, in relation to a generating station or to generating capacity of any description, means the maximum capacity at which that generating station or generating capacity could be operated for a sustained period without causing damage to it (assuming the source of power used by it to generate electricity was available to it without interruption);

“total output electricity”, in relation to a generating station, means the total amount of electricity generated by that station;

“total power output”, in relation to a qualifying CHP station, has the meaning given to it in the CHPQA;

“transmission or distribution system” means a transmission or distribution system within the meaning of Part 1 of the Act<sup>(30)</sup> or an equivalent system in Northern Ireland;

“UK ROC” means—

- (a) a ROC,
- (b) a renewables obligation certificate issued by the Authority under a renewables obligation order made by the Scottish Ministers, or
- (c) a Northern Ireland certificate;

“volatile solids” means any mass loss, corrected for moisture, when a solid is heated out of contact with air under the conditions specified, and using the methods, in BS EN 15402:2011; and

“waste” has the meaning given in Article 3(1) of [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste<sup>(31)</sup> but—

- (a) also includes anything derived from waste, and
- (b) does not include landfill gas or sewage gas.

(2) Where biomass or waste is used in a generating station (whether alone or together or in combination with another fuel) and—

- (a) a proportion of that biomass or waste is, or is derived from, fossil fuel, and
- (b) in any month during which that biomass or waste is used that proportion varies,

references in this Order to the energy content of that biomass or waste and fossil fuel are references to the overall energy content of that biomass or waste and fossil fuel used to fuel the station during that month.

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<sup>(30)</sup> Section 4(4) contains the definition of “distribute” (which provides the definition of “distribution system”) and “transmission system”. The definition of “distribute” was inserted by section 28(1) and (3)(a) of the Utilities Act 2000 (c.27); the definition of “transmission system” was substituted by section 135(1) and (4) of the Energy Act 2004 (c.20).

<sup>(31)</sup> OJ No L 312, 22.11.2008, p3.

(3) Where two or more of the fuels listed in paragraph (4) are mixed together to form one substance which is then used in a generating station to generate electricity, the provisions of this Order apply in relation to the electricity so generated in the same way as they would apply if the electricity had been generated using those fuels without mixing them together.

(4) The fuels referred to in paragraph (3) are—

- (a) fossil derived bioliquid;
- (b) bioliquid (not being fossil derived bioliquid);
- (c) biomass (not being bioliquid);
- (d) renewable waste (not being bioliquid or biomass);
- (e) fossil fuel including waste (other than waste falling within sub-paragraphs (a) to (d)).

(5) Any reference in this Order to the provision of information “in writing” includes 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 in this Order to the supply of electricity made to customers in Northern Ireland is to be construed in accordance with the definition of “supply” in Article 3 of the Electricity (Northern Ireland) Order 1992<sup>(32)</sup>.

### **Biomass and fuels which are to be treated as biomass**

**3.—**(1) In this Order, “biomass” means fuel which—

- (a) falls within paragraph (2),
- (b) falls within paragraph (3), or
- (c) is a fossil derived bioliquid.

(2) Fuel falls within this paragraph if—

- (a) at least 90% of its energy content is derived from relevant material, and
- (b) any fossil fuel forming part of the fuel is present following a process—
  - (i) to which the relevant material has been subject, and
  - (ii) the undertaking of which has caused the fossil fuel to be present in, on or with that material even though that was not the object of the process.

(3) Fuel falls within this paragraph if—

- (a) at least 90% of its energy content is derived from relevant material,
- (b) it is waste, and
- (c) any fossil fuel forming part of it was not added to it with a view to the fossil fuel being used as a fuel.

(4) For the purposes of this Order except for articles 28, 63, 82 and 84, a fuel which is used in a generating station with biomass but which is not biomass (including, where two or more of the fuels listed in article 2(4) are mixed together before being so used, each of those fuels which is not biomass) is to be treated as biomass if—

- (a) the energy content of the fuel is derived in part from relevant material and in part from fossil fuel;
- (b) either—
  - (i) the fossil fuel is present in it following a process—
    - (aa) to which the relevant material has been subject, and

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<sup>(32)</sup> S.R. (NI) 1992 No 231. There have been amendments which are not relevant.

- (bb) the undertaking of which has caused the fossil fuel to be present in, on or with that material even though that was not the object of the process; or
  - (ii) it is waste and the fossil fuel forming part of it was not added to it with a view to its being used as a fuel; and
  - (c) at least 90% of the total energy content of the fuel and the biomass with which the fuel is used is derived from relevant material.
- (5) Accordingly, any reference in this Order to biomass, other than in articles 28, 63, 82 and 84, is to be construed as a reference to biomass or fuel which (by virtue of paragraph (4)) is to be treated as biomass.
- (6) Where biomass (not being waste or fossil derived bioliquid) is used, whether on its own or not, to fuel a generating station and a proportion of it is composed of fossil fuel, the proportion of it which is composed of fossil fuel—
- (a) is to be determined by the Authority, and
  - (b) is the energy content of the fossil fuel from which it is in part composed expressed as a percentage of its energy content as a whole.
- (7) For the purposes of this article, “relevant material” means material, other than fossil fuel, which is, or is derived directly or indirectly from, plant matter, animal matter, fungi, algae or bacteria.

#### **Fossil derived bioliquid**

- 4.—(1) For the purposes of this Order, fossil derived bioliquid is to be treated as being in part composed of (or in part derived from) fossil fuel.
- (2) Where fossil derived bioliquid (not being waste) is used, whether on its own or not, to fuel a generating station, the proportion of the fossil derived bioliquid which is to be treated as being composed of (or derived from) fossil fuel—
- (a) is to be determined by the Authority, and
  - (b) is the energy content of the fossil fuel from which the fossil derived bioliquid is directly or indirectly produced expressed as a percentage of the energy content of the fossil derived bioliquid as a whole.

#### **Waste as a renewable source**

- 5.—(1) For the purposes of sections 32 to 32M of the Act and this Order, the term “renewable sources” includes renewable waste.
- (2) Subject to paragraph (3), where waste is being used to fuel a generating station, the proportion of the waste which is, or is derived from, fossil fuel—
- (a) is to be determined by the Authority, and
  - (b) is—
    - (i) for any waste that is a fossil derived bioliquid, the energy content of the fossil fuel from which the fossil derived bioliquid is directly or indirectly produced expressed as a percentage of the energy content of that fossil derived bioliquid as a whole,
    - (ii) for all other waste, the energy content of the fossil fuel from which the waste is in part composed or derived expressed as a percentage of the energy content of that waste as a whole.
- (3) Where the operator of a generating station in which municipal waste is used satisfies the Authority—

- (a) by reference to data published by an allocating authority, a waste disposal authority or a waste collection authority, that the proportion of the municipal waste so used which is, or is derived from, fossil fuel, is unlikely to exceed 50%, and
- (b) that the municipal waste so used has not been subject to any process before being so used that is likely to have materially increased that proportion,

that constitutes sufficient evidence of the fact that the proportion of the municipal waste so used which is, or is derived from, fossil fuel is 50%.

(4) Where—

- (a) municipal waste is used in a generating station and—
  - (i) the Authority is not satisfied as to the matters identified in paragraph (3), or
  - (ii) the operator of the station is claiming that the proportion of that waste which is, or is derived from, fossil fuel is less than 50%; or
- (b) waste (not being municipal waste) is used in a generating station and the Authority is not satisfied as to what proportion of the waste is, or is derived from, fossil fuel,

the Authority may require the operator of the generating station to arrange for samples of any fuel used (or to be used) in the station, or of any gas or other substance produced as a result of the use of such fuel, to be taken by a person, and analysed in a manner approved by the Authority, and for the results of that analysis to be made available to the Authority.

(5) In this article—

“allocating authority” and “waste disposal authority” have the same meaning as in Chapter 1 of Part 1 of the Waste and Emissions Trading Act 2003(33);

“waste collection authority” has the same meaning as in Part 2 of the Environmental Protection Act 1990(34).

### **Grace period generating stations**

6.—(1) In this Order, “grace period generating station” means a generating station to which paragraph (2) applies.

(2) This paragraph applies to a generating station if—

- (a) it was registered by the Authority as a grace period generating station under article 58ZA(35) of the 2009 Order (before that article was revoked by this Order), and
- (b) the Authority has not withdrawn the registration in question.

(3) In circumstances where the Authority has reason to believe that the information on which its decision to register a generating station as a grace period generating station was based was incorrect in a material particular, and having regard to those circumstances the Authority considers it appropriate to do so, the Authority may withdraw the registration in question.

(4) The Authority must notify the operator of the generating station in writing of any withdrawal of registration of the station as a grace period generating station.

(33) 2003 c.33. See section 24 of the Waste and Emissions Trading Act 2003. Section 24 has been amended by S.I. 2013/141, regulations 3(1) and (4) and the Local Government and Public Involvement in Health Act 2007 (c.28), section 209(1).

(34) 1990 c.43. See section 30 of the Environmental Protection Act 1990. Section 30 has been amended by the Local Government (Wales) Act 1994 (c.19), section 66(8), Schedule 9, paragraph 17(3) and Schedule 18 and the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 167(3).

(35) Article 58ZA was inserted by article 22 of S.I. 2013/768 and amended by article 18(1)(2) and (3) of S.I. 2014/893.

## PART 2

### The renewables obligation

#### **The renewables obligation**

7.—(1) The renewables obligation is imposed on each electricity supplier supplying electricity in England and Wales (a “designated electricity supplier”).

(2) The renewables obligation is that, subject to articles 67 and 68, each designated electricity supplier must, by the specified day, produce to the Authority, in respect of each megawatt hour of electricity that it supplies to customers in England and Wales during an obligation period, the number of UK ROCs determined in accordance with article 13.

(3) To enable the number referred to in paragraph (2) to be determined, the Secretary of State must first determine, for the obligation period in question, calculations A and B and the total number of UK ROCs required to be produced by designated electricity suppliers in accordance with articles 8 to 12.

(4) Where the number of UK ROCs that a designated electricity supplier is required to produce by virtue of paragraph (2) is not a whole number, it is to be rounded to the nearest whole number (one-half being rounded upwards).

#### **Part of calculation A referable to Great Britain**

8.—(1) Before the start of each obligation period, the Secretary of State is to estimate, in megawatt hours, the total amount of electricity likely to be supplied to customers in Great Britain during that period by designated electricity suppliers and electricity suppliers on whom the renewables obligation has been imposed by an order made under sections 32 to 32M of the Act by the Scottish Ministers.

(2) The figure representing the number of megawatt hours so estimated for an obligation period is to be multiplied by 0.154.

#### **Part of calculation A referable to Northern Ireland**

9.—(1) Before the start of each obligation period, the Secretary of State is to estimate, in megawatt hours, the total amount of electricity likely to be supplied to customers in Northern Ireland during that period by electricity suppliers on whom an obligation has been imposed by an order made under Articles 52 to 55F of the Energy (Northern Ireland) Order 2003.

(2) The figure representing the number of megawatt hours so estimated for an obligation period is to be multiplied by 0.063.

#### **Calculation A**

10.—(1) The product of the calculation in article 8(2), added to the product of the calculation in article 9(2), is (for the obligation period to which those calculations relate) calculation A.

(2) Where calculation A is not a whole number, it is to be rounded to the nearest whole number (one-half being rounded upwards).

(3) References to calculation A in articles 12 and 13 are to be construed accordingly.

#### **Calculation B**

11.—(1) Before the start of each obligation period, the Secretary of State is to estimate, in megawatt hours, the total amount of renewable electricity likely to be supplied to customers in the

United Kingdom during that period by designated electricity suppliers and electricity suppliers on whom an obligation has been imposed under an order made under sections 32 to 32M of the Act by Scottish Ministers or Articles 52 to 55F of the Energy (Northern Ireland) Order 2003.

(2) Having regard to this estimate, the Secretary of State is to calculate how many UK ROCs are likely to be issued in respect of that renewable electricity during that obligation period.

(3) The figure representing the number of UK ROCs likely to be so issued, increased by 10%, is calculation B for that obligation period.

(4) Where calculation B is not a whole number, it is to be rounded to the nearest whole number (one-half being rounded upwards).

(5) References to calculation B in articles 12 and 13 are to be construed accordingly.

(6) In this article “renewable electricity” means electricity which is generated from renewable sources and in respect of which UK ROCs may be issued.

### **Determining the total number of UK ROCs to be produced in an obligation period**

**12.**—(1) Having determined calculations A and B for an obligation period, the Secretary of State is to determine the total number of UK ROCs required to be produced by designated electricity suppliers (“the total obligation”) for that period in accordance with paragraphs (2) to (4).

(2) Where calculation A is equal to or greater than calculation B for an obligation period, the total obligation for that period is calculation A.

(3) Where calculation B is greater than calculation A for an obligation period, the total obligation for that period is calculation B.

(4) References to the total obligation in article 13 are to be construed accordingly.

### **Determining the number of UK ROCs to be produced by a designated electricity supplier in order to discharge its renewables obligation**

**13.**—(1) Where the total obligation for an obligation period is calculation A, in order to discharge its renewables obligation in respect of electricity that it supplies to customers in England and Wales during that period, a designated electricity supplier is required to produce 0.154 UK ROCs for each megawatt hour of electricity so supplied.

(2) Where the total obligation for an obligation period is calculation B, the number of UK ROCs that a designated electricity supplier is required to produce in order to discharge its renewables obligation in respect of electricity that it supplies to customers in England and Wales during that period is, for each megawatt hour so supplied, equal to—

$$\frac{\text{calculation B for that period} \times 0.154}{\text{calculation A for that period}}$$

(3) The Secretary of State must publish, by the 1st October preceding an obligation period, the number of UK ROCs that a designated electricity supplier is required to produce in respect of each megawatt hour of electricity that it supplies to customers in England and Wales during that period in order to discharge its renewables obligation for that period.

### **Further provision in relation to the production of UK ROCs**

**14.**—(1) A designated electricity supplier may discharge its renewables obligation by the production to the Authority of a Northern Ireland certificate.

(2) A designated electricity supplier may discharge up to 25% of its renewables obligation in respect of an obligation period by producing to the Authority UK ROCs relating to electricity supplied in the immediately preceding obligation period.

(3) Subject to paragraph (4), no more than 4% of a designated electricity supplier's renewables obligation may be satisfied by the production of UK ROCs issued in respect of electricity generated from bioliquid.

(4) The limit set out in paragraph (3) does not apply to the production of UK ROCs issued in respect of electricity—

- (a) generated by a generating station to which article 34 applies,
- (b) generated by a qualifying CHP station which has, as at the date of generation of the electricity, a total installed capacity of less than 1 megawatt,
- (c) generated from advanced fuel, or
- (d) generated in the way described as “energy from waste with CHP” in Schedule 5.

(5) A designated electricity supplier must not produce to the Authority a UK ROC which is previously been or has previously been produced to the Northern Ireland authority under a NIRO Order.

## PART 3

### Matters to be certified by and content of ROCs

#### **Matters to be certified by ROCs**

**15.** Where a ROC does not certify the matters within subsection (3) or (4) of section 32B of the Act, it must certify the matters within subsection (5), (6), (7) or (8) of that section.

#### **When electricity is to be regarded as supplied to customers in Great Britain or Northern Ireland**

**16.—(1)** For the purposes of sections 32 to 32L of the Act (in particular, for the purposes of a ROC certifying the matters within section 32B(3) or (5)), electricity generated by a generating station which cannot be shown to have been supplied to customers in Great Britain is to be regarded as having been so supplied if and to the extent that the conditions in paragraph (2) or (3) are met.

(2) The conditions in this paragraph are that—

- (a) the generating station is located in Northern Ireland;
- (b) the operator of the generating station or an intermediary acting on the operator's behalf sells the electricity generated by the station through the SEM Pool;
- (c) an electricity supplier purchases (directly or indirectly) from the SEM Pool an amount of electricity (the “relevant amount”) which is conveyed from a transmission or distribution system located wholly or partly in Northern Ireland to Great Britain through an interconnector;
- (d) the supplier—
  - (i) has previously agreed with the operator to purchase from the SEM Pool the relevant amount, and
  - (ii) supplies the electricity so purchased to customers in Great Britain; and
- (e) the relevant amount in any month, when taken together with the electricity which other electricity suppliers have agreed with the operator to purchase from the SEM Pool in that



month, does not exceed the total amount of electricity which the operator sells through the SEM Pool in that month.

- (3) The conditions in this paragraph are that—
- (a) the generating station is located in Northern Ireland and has a declared net capacity of less than 10 megawatts;
  - (b) the operator of the generating station sells electricity to an electricity supplier under a contract to which the operator and supplier are parties; and
  - (c) the electricity conveyed to the supplier under the contract—
    - (i) is conveyed from a transmission or distribution system located wholly or partly in Northern Ireland to Great Britain through an interconnector, and
    - (ii) is supplied to customers in Great Britain.

(4) For the purposes of paragraphs (2) and (3), a generating station is to be treated as if it is located in Northern Ireland if it is neither in Northern Ireland nor on land but is connected directly to a transmission or distribution system (or the part of such a system) that is located in Northern Ireland (and to no other system or part thereof).

(5) For the purposes of sections 32 to 32L of the Act (in particular, for the purposes of a ROC certifying the matters within section 32B(4) or (6)), electricity which cannot be shown to have been supplied to customers in Northern Ireland is to be regarded as having been so supplied if it has been sold through the SEM Pool or under a contract in circumstances where, had the electricity been generated by a generating station mentioned in Article 54(1) of the Energy (Northern Ireland) Order 2003, the Northern Ireland authority would have been entitled to issue a Northern Ireland certificate in respect of it.

- (6) In this article—
- “intermediary”, in relation to the operator of a generating station, and “SEM Pool” have the same meaning as they have in Article 34 of the Renewables Obligation Order (Northern Ireland) 2009<sup>(36)</sup> or, where that order has been revoked, as they have in any NIRO Order for the time being in force; and
- “Northern Ireland” has the same meaning as in Article 54(1) of the Energy (Northern Ireland) Order 2003.

#### **When electricity is used in a permitted way for ROCs certifying matters within section 32B(7) or (8) of the Act**

17.—(1) For the purposes of section 32B(7) and (8) of the Act (in particular, for the purposes of a ROC certifying the matters within section 32B(7) or (8)), electricity generated by a generating station of any description is used in a permitted way if, subject to paragraph (2), it is used in any of the ways mentioned in section 32B(10) of the Act.

- (2) Electricity is not used in a permitted way if—
- (a) it is supplied to customers in Great Britain through a private wire network,
  - (b) the generating station from which the electricity is conveyed has a declared net capacity in excess of 10 megawatts, and
  - (c) at some point before the electricity is supplied to customers through the private wire network it is conveyed through a transmission or distribution system operated under a licence granted under section 6 of the Act.

<sup>(36)</sup> S.R. (NI) 2009 No 154. Article 34(11)(a) and (d) contain the definitions for “SEM Pool” and “intermediary” respectively, as renumbered by article 25(4) of the [Renewables Obligation \(Amendment\) Order \(Northern Ireland\) 2013/116](#).

## PART 4

### Issue and revocation of ROCs

#### Issue of ROCs to generators and suppliers

**18.**—(1) The Authority is to issue ROCs.

(2) Subject to paragraphs (3) to (5) and article 19, the Authority is to issue a ROC to the operator of the generating station by which the electricity to which the ROC relates was generated.

(3) Where electricity—

(a) is required to be generated by a generating station from renewable sources under a NFFO arrangement, or

(b) in compliance with such an arrangement, is required to be made available to the nominated person,

ROCs are to be issued as set out in paragraphs (4) and (5).

(4) Where by virtue of the NFFO arrangement the nominated person is entitled to the electricity, ROCs are to be issued to electricity suppliers notified to the Authority by the nominated person as being purchasers of the electricity and to each in such numbers as are appropriate to the amount of the electricity which the nominated person notifies the Authority each has purchased (subject to the total number of ROCs available to be issued in respect of the electricity).

(5) Where electricity suppliers are entitled to electricity under a NFFO arrangement, ROCs are to be issued to those electricity suppliers, each in proportion to its entitlement.

(6) In this article, “nominated person” has the same meaning as it has in the Electricity from Non-Fossil Fuel Sources Saving Arrangements Order 2000<sup>(37)</sup>.

#### Issue of ROCs to agents

**19.**—(1) This article applies to a ROC which certifies the matters within section 32B(5), (6) or (8) of the Act (a “relevant ROC”).

(2) Where the generating stations to which a relevant ROC relates are operated by two or more persons (“the operators”), that ROC must be issued to an agent appointed for the purpose by the operators.

(3) The Authority must be notified in writing of—

(a) the agent’s appointment, name and address; and

(b) any termination of the agent’s appointment.

(4) A notification under paragraph (3) is to be given by the operators (or any of them) or the agent.

(5) Where notice is given under paragraph (3)(b) and received by the Authority, the termination takes effect (subject to paragraph (6)) at the end of the obligation period during which it is given, and until the expiration of that obligation period the Authority must continue to issue any relevant ROCs to the agent.

(6) Notwithstanding that termination of the agent’s appointment, after the expiration of that obligation period the Authority must continue to issue relevant ROCs to the agent where those ROCs relate to electricity generated during that obligation period.

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<sup>(37)</sup> S.I. 2000/2727; see article 2 of that Order which has been amended by section 3 of the Utilities Act 2000 (c.27) and S.I. 2001/3268.

(7) Paragraphs (5) and (6) do not apply in any case where the Authority is satisfied, by evidence produced to it, that owing to exceptional circumstances the termination should have immediate effect (in which case the termination takes effect on receipt of the notice under paragraph (3)(b)).

(8) Where any provision of this Order requires or permits something to be done by, to or in respect of an agent appointed under this article and the agent's appointment is terminated before that thing is done, references to that agent (however framed) are to be construed—

- (a) where a successor to the agent has been appointed under this article, as references to that successor;
- (b) in any other case, as references to the operators of the generating stations for whom the agent acted before they terminated the appointment.

### **Confirmations required from the person being issued with a ROC**

**20.**—(1) Subject to paragraphs (2) and (3), once during each obligation period the person to whom a ROC is to be issued must confirm to the Authority in writing, whether before or after the generation of the electricity to which the ROC relates, that that electricity, to the best of the person's knowledge and belief, has been or (as the case may be) will be—

- (a) in the case of a ROC certifying the matters within section 32B(3) or (5) of the Act, supplied by an electricity supplier to customers in Great Britain;
- (b) in the case of a ROC certifying the matters within section 32B(4) or (6) of the Act, supplied by a Northern Ireland supplier to customers in Northern Ireland;
- (c) in the case of a ROC certifying the matters within section 32B(7) or (8) of the Act, used in a permitted way.

(2) Where a ROC certifying the matters within section 32B(3) or (5) of the Act is to be issued and paragraph (1)(a) cannot be complied with because the electricity in respect of which the ROC is to be issued cannot be shown to have been supplied to customers in Great Britain, the person to whom the ROC is to be issued must confirm to the Authority in writing—

- (a) that the electricity in question is to be regarded as having been supplied to customers in Great Britain by virtue of article 16(2) or (3); and
- (b) where it is located otherwise than on land, that the generating station to which the ROC relates is connected directly to a transmission or distribution system (or the part of such a system) that is located in Northern Ireland (and to no other system or part thereof).

(3) Where a ROC certifying the matters within section 32B(4) or (6) of the Act is to be issued and paragraph (1)(b) cannot be complied with because the electricity in respect of which the ROC is to be issued cannot be shown to have been supplied to customers in Northern Ireland, the person to whom the ROC is to be issued must confirm to the Authority in writing that the electricity in question is to be regarded as having been supplied to customers in Northern Ireland by virtue of article 16(5).

(4) In this article "Northern Ireland" has the same meaning as in Article 54(1) of the Energy (Northern Ireland) Order 2003.

### **Further confirmations required for ROCs certifying matters within section 32B(3) and (5) of the Act where electricity generated otherwise than on land**

**21.**—(1) This article applies to a ROC certifying the matters within section 32B(3) or (5) of the Act which is to be issued in respect of electricity generated by a generating station which—

- (a) is not located on land, and
- (b) is not connected directly to a transmission or distribution system (or a part of such a system) that is located in Northern Ireland.

(2) Once during each obligation period, the person to be issued with a ROC to which this article applies must confirm to the Authority in writing, whether before or after the generation of the electricity to which the ROC relates, that—

- (a) the generating station to which the ROC relates is connected directly to a transmission or distribution system in Great Britain, and
- (b) the electricity in respect of which the ROC is to be issued cannot be or have been conveyed to Great Britain through an interconnector.

**Further confirmations required for ROCs certifying matters within section 32B(3) to (6) of the Act**

**22.**—(1) Subject to paragraph (2), once during each obligation period the person to be issued with a ROC certifying the matters within section 32B(3), (4), (5) or (6) of the Act must confirm to the Authority in writing, whether before or after the generation of the electricity to which the ROC relates—

- (a) that they are not a person who has been a party to an applicable NFFO arrangement (within the meaning of article 52);
- (b) that they are not (and to the best of their knowledge and belief will not during the obligation period in which the confirmation is given become) a person who is a party to an applicable NFFO arrangement (within the meaning of article 53); and
- (c) that they are not (and to the best of their knowledge and belief will not during the obligation period in which the confirmation is given become) a person who is a connected person or a linked person in relation to any such party.

(2) Paragraph (1) does not apply where the person to be issued with a ROC is an electricity supplier.

**Further confirmations required for ROCs certifying matters within section 32B(5), (6) and (8) of the Act**

**23.**—(1) Once during each obligation period, the person to be issued with a ROC certifying the matters within section 32B(5), (6) or (8) of the Act must confirm to the Authority in writing, whether before or after the generation of the electricity to which the ROC relates, the matters set out in paragraph (2).

(2) Those matters are—

- (a) that each of the generating stations in relation to which the ROC is to be issued—
  - (i) is a microgenerator, and
  - (ii) is accredited as a generating station capable of generating electricity in the same way from the same renewable source; and
- (b) where the generating stations in relation to which the ROC is to be issued are operated by two or more persons (“the operators”), that the operators have each—
  - (i) appointed the person providing the confirmation to act as agent to receive the ROC on their behalf in accordance with article 19, and
  - (ii) agreed that their entitlement to ROCs should be determined in the same way (either on a monthly basis or on an annual basis, depending on whether or not a notice has been given to the Authority under article 94(2)).

**Refusing to issue and revoking ROCs**

**24.**—(1) The Authority may refuse to issue a ROC where, in its opinion—

- (a) any confirmation required under articles 20 to 23 in respect of that ROC has not been provided,
- (b) any confirmation provided to it under this Part is not accurate and reliable, or
- (c) any requirement in article 78 or 80 which relates to that ROC is not met.

(2) Where, in relation to any electricity generated by a generating station in a month, the Authority is satisfied that—

- (a) any confirmation provided to it under this Part is false,
- (b) any information requested under or required to be provided by article 78 or 80 is false, or
- (c) a ROC was issued on the basis of any fraudulent behaviour, statement or undertaking on the part of the operator of that generating station or a connected person or, where ROCs are issued to an agent by virtue of article 19, that agent,

the Authority may revoke all ROCs issued in respect of that electricity in that month.

(3) The Authority must revoke any ROC which it has issued where the ROC certifies the matters within section 32B(4) or (6) of the Act and the Northern Ireland authority has notified the Authority that it is not satisfied that the electricity in respect of which the ROC was issued has been supplied to customers in Northern Ireland.

(4) Where the Authority—

- (a) is no longer satisfied that a ROC is accurate or should have been issued,
- (b) has reasonable doubts as to the accuracy or reliability of the information upon which it relied prior to the issue of a ROC, or
- (c) has been unable, due to a failure or refusal by any person (whether inside or outside England and Wales) to provide it with any information reasonably requested by it, to check the accuracy of either a ROC or any information which it relied upon prior to the issue of a ROC,

it may revoke the ROC (or another ROC which is identical in all material respects and which has been issued to the same person).

(5) In determining whether to revoke a ROC under paragraph (3) or (4), the Authority may disregard any changes to the amounts for RO input electricity, RO output electricity, total input electricity and total output electricity which were used by it to determine a generating station's RO eligible renewable output in a month if satisfied that, in all the circumstances, it is reasonable for it to do so.

(6) Where the Authority revokes a ROC it must delete that ROC from the Register and as soon as reasonably practicable afterwards give notice in writing of such revocation to the person who was the registered holder of the ROC at the time of its revocation.

(7) This article is subject to article 25(2) to (4).

### **Where ROCs cannot be revoked**

**25.—**(1) A ROC cannot be revoked where it has been produced to the Authority under article 7 or under article 5 of the 2009 Order.

(2) Nor can a ROC be revoked by the Authority under article 24(2) or (4) more than six years after it has been issued.

(3) Where the Authority would have revoked a ROC ("the original ROC") under article 24(2) or (4) but for the fact that it has already been produced to it under article 7 or under article 5 of the 2009 Order, the Authority must, subject to paragraph (4), refuse to issue a further ROC ("the further ROC") in respect of electricity generated by the generating station in relation to which the original ROC was issued.

(4) The Authority must refuse to issue the further ROC under paragraph (3) only if the original ROC was—

- (a) issued no more than six years previously; and
- (b) not issued to an electricity supplier under article 18(3) to (5).

## PART 5

### RO eligible renewable output

#### Meaning of RO input electricity

**26.**—(1) This article applies for the purposes of this Part.

(2) In any month where the total installed capacity of a generating station does not include any excluded capacity, “RO input electricity”, in relation to that station, means the total input electricity of the station during that month.

(3) Subject to paragraphs (4) and (5), in any month where the total installed capacity of a generating station includes excluded capacity, the “RO input electricity” of the station is equal to

$$A - \left( A \times \frac{B}{C} \right)$$

where—

- (a) A is the total input electricity of the station during that month,
- (b) B is the total installed capacity of the excluded capacity, and
- (c) C is the total installed capacity of the station.

(4) Subject to paragraph (5), in any month where the total installed capacity of a generating station includes excluded capacity and electricity which is used by the station solely for purposes directly related to the operation of the excluded capacity is measured separately from the remainder of the electricity used by the station, the “RO input electricity” of the station is equal to

$$A - D$$

where—

- (a) A is the total input electricity of the station during that month, and
  - (b) D is the total amount of electricity measured as being used by the station solely for purposes directly related to the operation of the excluded capacity during that month.
- (5) In any month where—
- (a) the total installed capacity of a generating station includes excluded capacity,
  - (b) all of the electricity which is used by the station for purposes directly related to the operation of the RO capacity is measured separately from the remainder of the electricity used by the station, and
  - (c) the station does not generate electricity wholly or partly from hydrogen (other than hydrogen that constitutes fossil fuel),

in relation to that station, “RO input electricity” means the total amount of electricity measured as being used by the station for purposes directly related to the operation of the RO capacity during that month.

(6) In this article, references to electricity used by a generating station for purposes directly related to the operation of excluded capacity or RO capacity include electricity used for those purposes whether or not the electricity was generated by the station or used while the station was generating electricity.

(7) In this article, “operation” includes fuel handling, fuel preparation, maintenance and the pumping of water.

### **Meaning of RO output electricity**

27.—(1) This article applies for the purposes of this Part.

(2) In any month where the total installed capacity of a generating station does not include any excluded capacity, “RO output electricity”, in relation to that station, means the total output electricity of the station during that month.

(3) Subject to paragraph (4), in any month where the total installed capacity of a generating station includes excluded capacity and all of the electricity generated by the excluded capacity is measured separately from any electricity generated by the station using RO capacity, the “RO output electricity” of the station is equal to

**E – F**

where—

- (a) E is the total output electricity of the station during that month, and
- (b) F is the total amount of electricity measured as being generated by the excluded capacity during that month.

(4) In any month where the total installed capacity of a generating station includes excluded capacity and all of the electricity generated by the station using RO capacity is measured separately from any electricity generated by the station using excluded capacity, “RO output electricity”, in relation to that station, means the total amount of electricity measured as being generated by the RO capacity during that month.

### **ROCs to be issued by the Authority in respect of a generating station’s RO eligible renewable output**

28.—(1) Subject to paragraphs (3) and (5) and article 94, ROCs—

- (a) are to be issued in respect of a generating station’s RO eligible renewable output in a month, and
- (b) must not be issued before the end of the second month following that month.

(2) Where—

- (a) electricity was generated—
  - (i) by a generating station with a total installed capacity of at least 1 megawatt, and
  - (ii) using biomass (other than animal excreta, bioliquid, landfill gas, sewage gas or waste), and
- (b) the greenhouse gas emissions from the use of that biomass are above the relevant target,

ROCs in respect of that electricity must not be issued before the end of the second month following the obligation period in which the electricity was generated.

(3) For the purposes of paragraph (3), the greenhouse gas emissions from the use of biomass must be calculated in accordance with paragraphs 3 to 5 of Schedule 2.

(4) When issuing ROCs in respect of electricity generated in a month by a generating station or, in the case of ROCs certifying the matters within section 32B(5), (6) or (8) of the Act, two or more generating stations, the Authority must—

- (a) determine the RO eligible renewable output of that generating station or, as the case may be, those generating stations in that month in accordance with article 29 or 30 (whichever is applicable); and
- (b) issue ROCs in respect of that station's or those stations' RO eligible renewable output, the amount of electricity to be stated in each ROC being determined in accordance with articles 31 to 41.

(5) Where the number of megawatt hours of RO eligible renewable output in respect of which ROCs are to be issued does not equate to a whole number of ROCs, the number of megawatt hours is to be rounded to the nearest figure which does so equate (and where there are two such figures, the number of megawatt hours is to be rounded upwards).

(6) In this article, "relevant target" has the same meaning as in Part 1 of Schedule 2.

#### **Calculating a generating station's RO eligible renewable output**

**29.**—(1) Subject to article 30, the RO eligible renewable output of a generating station in any month is equal to

**A – B**

(2) In paragraph (1)—

- (a) A is the RO output electricity of the station during the month in question, less—
  - (i) any electricity generated by the station during that month from fossil fuel, and
  - (ii) any ineligible electricity generated by the station during that month; and
- (b) B is—
  - (i) where the RO input electricity used by the station during the month in question does not exceed 0.5% of the RO output electricity of the station during that month, zero; and
  - (ii) in any other case, the RO input electricity used by the station during that month.

(3) For the purposes of paragraph (2), where a generating station generates electricity from fossil fuel in any month, the amount of electricity so generated is equal to

$$(C - B) \times \frac{D - E}{F}$$

(4) In paragraph (3)—

- (a) "B" has the same meaning as in paragraph (2);
- (b) C is the RO output electricity of the station during the month in question;
- (c) D is the energy content of all of the fossil fuel used in generating the RO output electricity of the station during that month;
- (d) E is the energy content of any fossil fuel used by the station to generate ineligible electricity during that month; and
- (e) F is the energy content of all of the fuels used in generating that station's RO output electricity during that month.



(5) In this article, “ineligible electricity” means electricity which is generated using the RO capacity of a generating station and which is—

- (a) electricity in respect of which ROCs are not to be issued by virtue of Part 7, or
- (b) electricity in respect of which the Authority has decided to refuse to issue a ROC in accordance with article 24(1) or 25(3).

### **Calculating the RO eligible renewable output of a qualifying CHP station**

**30.**—(1) This article applies to a qualifying CHP station in any month during which it generates electricity from waste (other than waste which constitutes biomass or is used by the station for permitted ancillary purposes or is an advanced fuel or is in the form of a liquid or gaseous fuel produced by means of anaerobic digestion).

(2) The RO eligible renewable output of a generating station to which this article applies in any month is equal to

$$(A - B) \times \frac{G}{H}$$

(3) In this article—

- (a) “A” and “B” have the same meanings as in article 29;
- (b) G is the qualifying power output of the station; and
- (c) H is the total power output of the station.

## **PART 6**

### **Banding**

### **Calculating the amount of electricity generated by a particular category of generating capacity**

**31.**—(1) References in this Part to a category of generating capacity are references to one of the following—

- (a) pre-2013 capacity;
- (b) 2013/14 capacity;
- (c) 2014/15 capacity;
- (d) 2015/16 capacity;
- (e) post-2016 capacity.

(2) Paragraph (3) applies for the purposes of this Part.

(3) Where during any month two or more categories of generating capacity form part of the RO capacity of a generating station, the proportion of a station’s RO eligible renewable output which is generated by each category of generating capacity is

$$A \div B$$

(4) In paragraph (3)—

- (a) A is the total installed capacity of that category of generating capacity of the station in the month in question (other than any of that category of generating capacity which forms part of the excluded capacity of the station), and
- (b) B is the total installed capacity of the RO capacity of the station in that month.

### **Calculating the amount of electricity generated in a particular way**

**32.**—(1) References in this Part to a way of generating electricity are references to—

- (a) one of the ways of generating electricity described in the first column of Parts 2, 3 or 5 of Schedule 5;
- (b) generating electricity in the way described in article 36(1)(c);
- (c) generating electricity in the way described in article 36(1)(c) and (3)(b);
- (d) generating electricity from renewable sources in a way not falling within sub-paragraph (a), (b) or (c).

(2) Paragraph (3) applies for the purposes of this Part.

(3) Where during any month the RO eligible renewable output of a generating station is generated in two or more ways, the proportion of the station’s RO eligible renewable output which is generated in each of those ways is—

- (a) in the case of electricity generated in a way that does not use fuel,

$$C \div B$$

;

- (b) in the case of electricity generated using mixed gas in the way described as “AD” in Schedule 5,

$$\frac{D}{B} \times \frac{E}{F} \times \frac{G}{H}$$

;

- (c) in the case of electricity generated using mixed gas in the way described as “electricity generated from sewage gas” in Schedule 5,

$$\frac{D}{B} \times \frac{E}{F} \times \frac{I}{H}$$

;

- (d) in the case of electricity generated in a way not falling within sub-paragraph (a), (b) or (c),

$$\frac{D}{B} \times \frac{J}{F}$$

.

(4) In paragraph (3)—

- (a) B is the total installed capacity of the RO capacity of the station in that month;
- (b) C is the maximum capacity in that month at which the station could generate electricity—
  - (i) in the way in question,
  - (ii) using RO capacity, and

- (iii) for a sustained period without causing damage to the station (assuming the source of power used by the station to generate electricity was available to it without interruption);
  - (c) D is the maximum capacity in that month at which the station could generate electricity—
    - (i) from fuel,
    - (ii) using RO capacity, and
    - (iii) for a sustained period without causing damage to the station (assuming the fuel used by the station to generate electricity was available to it without interruption);
  - (d) E is the energy content of the mixed gas used in generating the station's RO output electricity during that month less the energy content of any fossil fuel from which the mixed gas is in part composed;
  - (e) F is the energy content of all of the renewable sources used in generating the station's RO output electricity during that month less the energy content of any fossil fuel from which those renewable sources are in part composed;
  - (f) G is the dry mass of—
    - (i) any renewable waste (other than sewage), and
    - (ii) any biomass (other than sewage or renewable waste),from which the mixed gas used in generating the station's RO output electricity during that month is formed, less the dry mass of any digestible fossil fuel from which that waste or biomass is in part composed;
  - (g) H is the dry mass of all of the material from which the mixed gas used in generating the station's RO output electricity during that month is formed, less the dry mass of any digestible fossil fuel from which that material is in part composed;
  - (h) I is the dry mass of the sewage from which the mixed gas used in generating the station's RO output electricity during that month is formed; and
  - (i) J is the energy content of the renewable sources used in generating the station's RO output electricity in the way in question during that month less the energy content of any fossil fuel from which those renewable sources are in part composed.
- (5) For the purposes of paragraphs (3) and (4)(c), electricity generated in the way described as "landfill gas heat recovery" in Schedule 5 is to be regarded as not generated from fuel.
- (6) In this article—
- "dry mass", in relation to a fuel, means the mass of the fuel when any water present in it has been removed; and
- "mixed gas" means gas formed by the anaerobic digestion of sewage together with—
- (a) renewable waste (other than sewage), or
  - (b) biomass (other than sewage).

### **The amount of electricity to be stated in each ROC**

- 33.**—(1) Each ROC is to state the amount of electricity in respect of which it has been issued.
- (2) Subject to articles 34 to 41, the amount of electricity to be stated in each ROC is to be determined in accordance with paragraphs (3) to (8).
- (3) Each ROC to be issued in respect of electricity generated—
- (a) using pre-2013 capacity, and
  - (b) in a way described in the first column of Part 2 of Schedule 5,

must state the amount of electricity which corresponds to that description in the second column of that Part of that Schedule.

(4) Each ROC to be issued in respect of electricity generated—

- (a) using 2013/14 capacity, and
- (b) in a way described in the first column of Part 3 of Schedule 5,

must state the amount of electricity which corresponds to that description in the second column of that Part of that Schedule.

(5) Each ROC to be issued in respect of electricity generated—

- (a) using 2014/15 capacity, and
- (b) in a way described in the first column of Part 3 of Schedule 5,

must state the amount of electricity which corresponds to that description in the third column of that Part of that Schedule.

(6) Each ROC to be issued in respect of electricity generated—

- (a) using 2015/16 capacity, and
- (b) in a way described in the first column of Part 3 of Schedule 5,

must state the amount of electricity which corresponds to that description in the fourth column of that Part of that Schedule.

(7) Each ROC to be issued in respect of electricity generated—

- (a) using post-2016 capacity, and
- (b) in a way described in the first column of Part 3 of Schedule 5,

must state the amount of electricity which corresponds to that description in the fifth column of that Part of that Schedule.

(8) The amount of electricity to be stated in each ROC to be issued in respect of electricity generated in a way which is not described in the first column of Part 2 of Schedule 5 is 1 megawatt hour.

### **Microgenerators**

**34.**—(1) This article applies to a generating station which—

- (a) is a microgenerator, and
- (b) has not had a declared net capacity in excess of 50 kilowatts at any time after 31st March 2009.

(2) Each ROC to be issued in respect of electricity generated—

- (a) by a generating station to which this article applies, and
- (b) using a category of generating capacity described in the first column of Part 4 of Schedule 5,

must state the amount of electricity which corresponds to that description in the second column of that Part of that Schedule.

(3) This article is subject to article 41.

### **Electricity generated by qualifying CHP stations**

**35.**—(1) This article applies to electricity (“relevant electricity”)—

- (a) which is generated by a qualifying CHP station in a way described in the first column of Part 5 of Schedule 5,

- (b) to which article 36 does not apply, and
  - (c) which is generated by a generating station to which article 34 does not apply.
- (2) Subject to paragraphs (3) to (6), the amount of electricity to be stated in each ROC issued in respect of relevant electricity is to be determined in accordance with article 33(3) to (7).
- (3) Where relevant electricity is generated using pre-2013 capacity, the amount of electricity to be stated in each ROC is—
- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 5 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule; and
  - (b) in respect of the remainder of that electricity, the amount of electricity in the third column of Part 5 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule.
- (4) Where a declaration has been made in accordance with paragraph (7) in respect of the 2013/15 capacity of a station, and relevant electricity is generated by that station using 2013/15 capacity, the amount of electricity to be stated in each ROC is—
- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 5 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule; and
  - (b) in respect of the remainder of that electricity, the amount of electricity in the third column of Part 5 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule.
- (5) Where a declaration has been made in accordance with paragraph (7) in respect of the 2015/16 capacity of a station, and relevant electricity is generated by that station using 2015/16 capacity, the amount of electricity to be stated in each ROC is—
- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 6 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule; and
  - (b) in respect of the remainder of that electricity, the amount of electricity in the third column of Part 6 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule.
- (6) Where a declaration has been made in accordance with paragraph (7) in respect of the post-2016 capacity of a station, and relevant electricity is generated by that station using post-2016 capacity, the amount of electricity to be stated in each ROC is—
- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 7 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule; and
  - (b) in respect of the remainder of that electricity, the amount of electricity in the third column of Part 7 of Schedule 5 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule.
- (7) A declaration is made in accordance with this paragraph if it meets the following conditions—
- (a) it is made by the operator of the generating station to the Authority in writing;
  - (b) it is made in respect of the 2013/15 capacity, 2015/16 capacity or post-2016 capacity of the station;
  - (c) in the case of a declaration made in respect of the 2013/15 capacity of the station, it confirms that—
    - (i) 2013/15 capacity forms part of the total installed capacity of the station, and

- (ii) support has not been given under any relevant scheme for heat produced by the use of that generating capacity;
- (d) in the case of a declaration made in respect of the 2015/16 capacity of the station, it confirms that—
  - (i) 2015/16 capacity forms part of the total installed capacity of the station, and
  - (ii) none of the heat produced by the use of the 2015/16 capacity is eligible for support under a relevant scheme for reasons that include one or both of the following—
    - (aa) the way in which the station generates electricity,
    - (bb) the bioliquid, biomass or energy crops used by the station to generate electricity;
- (e) in the case of a declaration made in respect of the post-2016 capacity of the station, it confirms that—
  - (i) post-2016 capacity forms part of the total installed capacity of the station, and
  - (ii) none of the heat produced by the use of the post-2016 capacity is eligible for support under a relevant scheme for reasons that include one or both of the following—
    - (aa) the way in which the station generates electricity,
    - (bb) the bioliquid, biomass or energy crops used by the station to generate electricity; and
- (f) it states that, for so long as the station generates electricity in respect of which ROCs may be issued, the operator of the station will not claim support under any relevant scheme for heat produced by the station using the category of generating capacity in respect of which the declaration is made.
- (8) A declaration made in accordance with paragraph (7) cannot be withdrawn.
- (9) In this article, “relevant scheme” means a scheme established by the Secretary of State in exercise of the power in section 100(1)(a) of the Energy Act 2008(38).
- (10) This article is subject to article 41.

### **Low-range co-firing of relevant energy crops**

- 36.**—(1) This article applies to electricity which is generated—
- (a) before 1st April 2019,
  - (b) by a generating station to which article 34 does not apply, and
  - (c) from relevant energy crops burned in a combustion unit in a month in which—
    - (i) the energy content of the biomass burned in that combustion unit is less than 50% of the energy content of all of the energy sources burned in that combustion unit during that month, and
    - (ii) the generating station generates electricity partly from fossil fuel and partly from renewable sources.
- (2) Subject to paragraph (4), the amount of electricity to be stated in each ROC issued in respect of electricity to which this article applies is 1 megawatt hour.
- (3) Paragraph (4) applies where electricity to which this article applies is generated—
- (a) by a qualifying CHP station,

- (b) in a month in which the fossil fuel used by the station to generate electricity has been burned in a separate combustion unit from the relevant energy crops used by the station to generate electricity, and
- (c) using—
  - (i) pre-2013 capacity, or
  - (ii) 2013/15 capacity, 2015/16 capacity or post-2016 capacity in respect of which a declaration has been made in accordance with article 35(7).
- (4) Where this paragraph applies, the amount of the electricity to be stated in each ROC is—
  - (a) in respect of the qualifying proportion of the electricity,  
$$\frac{2}{3}$$
of a megawatt hour; and
  - (b) in respect of the remainder of the electricity, 1 megawatt hour.
- (5) Paragraphs (a), (b) and (d) of paragraph 1(2) of Part 1 of Schedule 5 apply for the purposes of this article as they apply for the purposes of that Schedule.
- (6) In this article, “relevant energy crops” means energy crops which are supplied to the operator of a generating station in accordance with an agreement made—
  - (a) in writing,
  - (b) before 7th September 2012, and
  - (c) between the owner or operator of the generating station and a person who is not connected to the owner or operator of the station within the meaning of section 1122 of the Corporation Tax Act 2010(39).
- (7) This article is subject to article 41.

**Generating stations which were accredited as at 11th July 2006**

- 37.—(1) This article applies to electricity which is—
- (a) generated by a generating station—
    - (i) which was accredited as at 11th July 2006,
    - (ii) which has not ceased to be accredited since that date, and
    - (iii) to which article 34 does not apply;
  - (b) generated using pre-2013 capacity, and
  - (c) generated—
    - (i) from landfill gas,
    - (ii) from sewage gas,
    - (iii) in the way described as “offshore wind” in Schedule 5,
    - (iv) in the way described as “solar photovoltaic” in Schedule 5, or
    - (v) in the way described as “wave” in Schedule 5.
- (2) Subject to paragraphs (3) to (5), the amount of electricity to be stated in each ROC issued in respect of electricity to which this article applies is 1 megawatt hour.

(3) Where, at the time it generates the electricity, the generating station's total installed capacity is greater than it was on 11th July 2006, paragraph (2) applies only in relation to ROCs which are to be issued in respect of—

- (a) where electricity generated using the total installed capacity of the station as at 11th July 2006 (“the July 2006 capacity”) is measured separately from electricity generated using capacity which has been added to the station since that date (“additional capacity”), the electricity to which this article applies which is generated using the station's July 2006 capacity;
- (b) in any other case, the appropriate percentage of the electricity to which this article applies (the appropriate percentage for these purposes being the total installed capacity of the station as at 11th July 2006 expressed as a percentage of the total installed capacity of the pre-2013 capacity of the station as at the date of generation of the electricity).

(4) In relation to the remainder of the electricity to which this article applies, the amount of electricity to be stated in each ROC is to be determined in accordance with article 33(3) except to the extent that it is electricity which is generated—

- (a) using additional capacity which was operational before 1st April 2011 (“relevant additional capacity”); and
- (b) from landfill gas or from sewage gas.

(5) Where the electricity to which this article applies is generated from landfill gas or from sewage gas using relevant additional capacity, the amount of electricity to be stated in each ROC which is to be issued in respect of that electricity is 1 megawatt hour.

(6) In paragraphs (4) and (5), the reference to electricity generated using additional capacity is a reference to—

- (a) where electricity generated using relevant additional capacity is measured separately from electricity generated otherwise than by using such capacity, the electricity which is generated using that capacity;
- (b) in any other case, the appropriate percentage of the electricity to which this article applies (the appropriate percentage for these purposes being the relevant additional capacity of the station at the date of generation of the electricity expressed as a percentage of the total installed capacity of the pre-2013 capacity at that date).

(7) This article is subject to article 41.

**Landfill gas and sewage gas generating stations which were accredited, or held preliminary accreditation, as at 31st March 2009**

**38.**—(1) Subject to paragraph (3), this article applies to electricity which is generated—

- (a) by a generating station—
  - (i) which was accredited as at 31st March 2009, and
  - (ii) which has not ceased to be accredited since that date,
- (b) from landfill gas or sewage gas, and
- (c) using pre-2013 capacity.

(2) Subject to paragraph (3), this article also applies to electricity which is generated—

- (a) by a generating station—
  - (i) which was accredited on or before 31st March 2011,
  - (ii) which, since being accredited, has not ceased to be accredited at any time, and
  - (iii) in respect of which preliminary accreditation was held—



- (aa) as at 31st March 2009, and
- (bb) from that date until the date on which the station was accredited,
- (b) from landfill gas or sewage gas, and
- (c) using pre-2013 capacity.
- (3) This article does not apply to electricity—
  - (a) which is generated by a generating station to which article 34 applies, or
  - (b) to which article 37 applies.
- (4) Subject to paragraph (5), the amount of electricity to be stated in each ROC issued in respect of electricity to which this article applies is 1 megawatt hour.
- (5) Where, at any time it generates electricity after 31st March 2011, the generating station’s total installed capacity is greater than it was on 31st March 2011, paragraph (4) applies only in relation to ROCs which are to be issued in respect of—
  - (a) where electricity generated using the total installed capacity of the station as at 31st March 2011 (“the March 2011 capacity”) is measured separately from electricity generated using capacity which has been added to the station since that date, the electricity to which this article applies which is generated using the station’s March 2011 capacity;
  - (b) in any other case, the appropriate percentage of the electricity to which this article applies (the appropriate percentage for these purposes being the total installed capacity of the station as at 31st March 2011 expressed as a percentage of the total installed capacity of the pre-2013 capacity of the station as at the date of generation of the electricity).
- (6) In relation to the remainder of the electricity to which this article applies, the amount of electricity to be stated in each ROC is to be determined in accordance with article 33(3).
- (7) This article is subject to article 41.

**Offshore wind turbines installed between 2006 and 2010**

**39.**—(1) This article applies to electricity which is generated using an offshore wind turbine which, in the Authority’s view, first formed part of the generating station from a date no earlier than 12th July 2006 and no later than 31st March 2010 (“a 2006/10 wind turbine”).

(2) The amount of electricity to be stated in each ROC issued in respect of electricity to which this article applies is

$$\frac{2}{3}$$

of a megawatt hour.

(3) In any month in which the electricity to which this article applies is not measured separately from any other electricity generated by the generating station, the percentage of the electricity generated by the station during that month which is to be treated (for the purposes of paragraph (2)) as having been generated using a 2006/10 wind turbine, is the appropriate percentage.

(4) For the purposes of paragraph (3), the appropriate percentage is the total installed capacity of the 2006/10 turbines forming part of the generating station as at the date of generation of the electricity expressed as a percentage of the total installed capacity of the station at that date.

(5) This article is subject to article 41.

**Wave and tidal stream generating stations**

**40.**—(1) This article applies to electricity which is generated—

- (a) using 2012/17 marine capacity, and
- (b) by a generating station to which article 34 does not apply.

(2) Where the total installed capacity of the 2012/17 marine capacity of the generating station does not exceed 30 megawatts as at the date of the generation of the electricity, the amount of electricity to be stated in each ROC issued in respect of electricity to which this article applies is

$$\frac{1}{5}$$

of a megawatt hour.

(3) Where the total installed capacity of the 2012/17 marine capacity of the generating station exceeds 30 megawatts as at the date of the generation of the electricity, the amount of electricity to be stated in each ROC is—

- (a) in the case of a ROC issued in respect of the relevant proportion of the electricity to which this article applies,

$$\frac{1}{5}$$

of a megawatt hour;

- (b) in the case of a ROC issued in respect of the remainder of the electricity to which this article applies, an amount to be determined in accordance with article 33(3) to (7).

(4) In any month where 2012/17 marine capacity forms part, but not the whole, of the total installed capacity of a generating station, the proportion of the station's RO eligible renewable output which, for the purposes of paragraphs (2) and (3), is generated using 2012/17 marine capacity is

$$\frac{A}{B}$$

(5) In paragraph (4)—

- (a) A is the total installed capacity of the 2012/17 marine capacity in the month in question; and
- (b) B is the total installed capacity of the station in the month in question.

(6) In this article—

“2012/17 marine capacity”, in relation to a generating station, means any capacity which—

- (a) generates electricity from the capture of the energy created from—
  - (i) the motion of naturally occurring tidal currents in water, or
  - (ii) the motion of naturally occurring waves on water,
- (b) in the Authority's view, first formed part of the station from a date no earlier than 1st April 2012 and no later than 31st March 2017,
- (c) has, on or before 31st March 2017, generated electricity in respect of which ROCs may be issued, and
- (d) in the case of a station accredited on or before 31st March 2012, does not form part of the capacity of the station as accredited; and

“the relevant proportion”, in relation to electricity generated using the 2012/17 marine capacity of a generating station, is the proportion which 30 megawatts bears to the total installed capacity of the 2012/17 marine capacity as at the date of generation of the electricity.

(7) This article is subject to article 41.

### **Generating stations in respect of which a statutory grant has been awarded**

**41.**—(1) This article applies to a generating station—

- (a) in respect of which a statutory grant was awarded on or before 11th July 2006, and
- (b) which either—
  - (i) was granted accreditation which took effect after 11th July 2006, or
  - (ii) generates electricity from biomass or waste (including fuels produced from biomass or waste by means of gasification, pyrolysis or anaerobic digestion).

(2) The operation of articles 33 to 40 in relation to electricity generated by a generating station to which this article applies is conditional upon—

- (a) if the grant referred to in paragraph (1)(a) or any part of it has been paid, an operator of the station—
  - (i) having repaid to the Secretary of State on or before 31st March 2011 so much of the grant as has been paid, and
  - (ii) having paid to the Secretary of State interest on the amount repayable under paragraph (i) for such period, and at such rate, as may be determined by the Secretary of State, and
- (b) if the grant referred to in paragraph (1)(a) or any part of it has not yet been paid, the cancellation of the award of that grant or part.

(3) Where a generating station to which this article applies generates electricity at a time when the operator of the station has not produced to the Authority evidence of—

- (a) the repayment of all amounts due under paragraph (2)(a)(i),
- (b) the payment of all amounts of interest due under paragraph (2)(b)(ii), and
- (c) the cancellation of the award of the grant referred to in paragraph (1)(a) or the cancellation of the award of any part of that grant that has not yet been paid,

the amount of electricity to be stated in each ROC issued in respect of that electricity is 1 megawatt hour or the amount determined in accordance with any of articles 33 to 36, whichever is the greater.

(4) In determining how electricity has been generated for the purposes of paragraph (1)(b)(ii), no account is to be taken of any waste which the generating station uses for permitted ancillary purposes.

### **Review of banding provisions**

**42.**—(1) For the purposes of section 32D(7) and (8) of the Act, the Secretary of State may commence a review of the banding provisions in October 2018 and at subsequent four yearly intervals.

(2) For those purposes the Secretary of State may review all or any of the banding provisions at any time if satisfied that one or more of the following conditions is satisfied—

- (a) the charges imposed by network operators on persons, or a class of persons, making a request for connection to and use of a transmission or distribution system have changed significantly since the Secretary of State made the banding provisions;
- (b) the charges imposed by network operators on persons, or a class of persons, who generate electricity have changed significantly since the Secretary of State made the banding provisions;
- (c) a way of generating electricity is being or has been developed that—

- (i) is likely to be used to generate from renewable sources electricity which is supplied to customers in Great Britain, and
- (ii) is not listed in the first column of Part 2 or Part 3 of Schedule 5;
- (d) there has been a change, since the Secretary of State made the banding provisions, in any support, whether financial or otherwise, provided under any enactment other than sections 32 to 32M of the Act to persons generating electricity from renewable sources and that change is likely to have a significant impact on the generation of electricity from renewable sources;
- (e) the costs of generating electricity in any of the ways listed in the first column of Part 2 or Part 3 of Schedule 5 are significantly different from the costs of generating electricity in that way to which the Secretary of State had regard when making the banding provisions;
- (f) there is evidence over a significant period that the provisions of article 14(3) and (4) are having a material effect on trade in ROCs referred to in article 14(3);
- (g) in an obligation period the number of ROCs issued by, produced to or likely to be produced to the Authority exceeds or is likely to exceed the total number of ROCs required to be produced to the Authority in respect of that obligation period by designated electricity suppliers;
- (h) an event has occurred which—
  - (i) is relevant to the matters set out in section 32D(4) of the Act,
  - (ii) was not foreseen by the Secretary of State when making the banding provisions, and
  - (iii) has had or is likely to have a material effect on the operation of this Order.
- (3) In this article—
  - “banding provision” means a provision of articles 33 to 40, and
  - “network operators” are persons authorised by a licence under section 6(1)(b) or (c) of the Act<sup>(40)</sup> to participate in the transmission of electricity or to distribute electricity.

## PART 7

### Cases and circumstances when a ROC must not be issued

#### **Generating stations not compliant with accreditation or metering requirements**

- 43.**—(1) ROCs are not to be issued in respect of any electricity generated by a generating station during a month in which the station—
- (a) is not accredited, or
  - (b) any conditions to which the accreditation is subject are not met.
- (2) ROCs are not to be issued in respect of any electricity generated by a generating station unless—
- (a) the electricity is measured using a meter which, if used for ascertaining the quantity of electricity supplied by an authorised supplier to a customer, would be approved for the purposes of paragraph 2(1)(a) of Schedule 7 to the Act, or

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<sup>(40)</sup> 1989 c.29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c.27); section 6(1)(b) was substituted by section 136(1) of the Energy Act 2004 (c.20); section 6(1)(c) was amended by Schedule 23(1) paragraph 1 to the Energy Act 2004 (c.20).

- (b) the Authority has agreed that estimates may be provided instead of measurements using a meter.

### **Maximum period of eligibility for ROCs**

**44.**—(1) Subject to paragraph (3), in the case of a generating station first accredited on or before 25th June 2008, ROCs are not to be issued in respect of any electricity generated by the station—

- (a) using original capacity or mid-2008 additional capacity, after 31st March 2027,
- (b) using additional capacity (other than mid-2008 additional capacity), on or after the 20th anniversary of the date on which, in the Authority’s view, that additional capacity first formed part of the station or 31st March 2037 (whichever is the earlier).

(2) Subject to paragraph (3), in the case of a generating station first accredited after 25th June 2008, ROCs are not to be issued in respect of any electricity generated by the station—

- (a) using original capacity, on or after the 20th anniversary of the date on which the station was first accredited or 31st March 2037 (whichever is the earlier),
- (b) using additional capacity, on or after the 20th anniversary of the date on which, in the Authority’s view, that additional capacity first formed part of the station or 31st March 2037 (whichever is the earlier).

(3) Paragraphs (1) and (2) do not apply in relation to the issue of ROCs in respect of the generation of electricity using a registered offshore wind turbine.

(4) ROCs are not to be issued in respect of any electricity generated using a registered offshore wind turbine, on or after the 20th anniversary of the date on which that wind turbine was registered under article 91 or 31st March 2037 (whichever is the earlier).

(5) In this article—

“additional capacity” means generating capacity which—

- (a) forms part of an accredited generating station, and
- (b) does not form part of the original capacity of that generating station;

“mid-2008 additional capacity” means additional capacity which formed part of a generating station on or before 25th June 2008; and

“registered offshore wind turbine” means a wind turbine which is registered under article 91.

### **Generating stations using excluded capacity to generate electricity**

**45.**—(1) This article applies to a generating station where excluded capacity forms all or part of the total installed capacity of the station.

(2) ROCs are not to be issued in respect of any electricity generated in any month by a generating station to which this article applies unless during that month—

- (a) all of the electricity generated by the station using the excluded capacity is measured separately from any electricity generated by the station using RO capacity, or
- (b) all of the electricity generated by the station using RO capacity is measured separately from any electricity generated by the station using the excluded capacity.

(3) ROCs are not to be issued in respect of any electricity generated using excluded capacity.

(4) In this article, “excluded capacity” means—

- (a) generating capacity which—

- (i) in the Authority’s view formed part of a generating station from a date no earlier than 1st April 2014,

- (ii) does not form part of the original capacity of the station,
- (iii) is not registered under article 92, and
- (iv) is not an offshore wind turbine;
- (b) an offshore wind turbine which—
  - (i) forms part of a generating station accredited on or before 31st March 2011,
  - (ii) does not form part of the original capacity of the station,
  - (iii) was not used to generate electricity before 1st April 2011, and
  - (iv) is not registered under article 91;
- (c) an offshore wind turbine which—
  - (i) forms part of a generating station first accredited after 31st March 2011, and
  - (ii) is not registered under article 91;
- (d) a combustion unit in relation to which a capacity market transfer notice (within the meaning of article 48(3)) has come into force; or
- (e) a combustion unit in relation to which a CFD transfer notice (within the meaning of article 50(3))—
  - (i) has come into force, and
  - (ii) has not been withdrawn in accordance with article 50(4).
- (5) For the purposes of paragraph (4)—
  - (a) the date on which a capacity market transfer notice comes into force is to be determined in accordance with article 48(6), and
  - (b) the date on which a CFD transfer notice comes into force is to be determined in accordance with article 50(7).

### **Generating stations located outside England and Wales**

**46.**—(1) ROCs are not to be issued in respect of any electricity generated by a generating station located in Scotland.

(2) ROCs are not to be issued in respect of any electricity generated by a generating station mentioned in Article 54(1) of the Energy (Northern Ireland) Order 2003 where the electricity has been supplied to customers in Northern Ireland.

(3) ROCs are not to be issued in respect of any electricity generated by a generating station located beyond the seaward limits of the territorial sea adjacent to the United Kingdom unless—

- (a) it is connected directly to a transmission or distribution system (or the part of such a system) located in Northern Ireland (and to no other system or part thereof), or
- (b) it is an area designated under section 1(7) of the Continental Shelf Act 1964<sup>(41)</sup> or in a Renewable Energy Zone.

(4) In this article—

“Northern Ireland” has the same meaning as in Article 54(1) of the Energy (Northern Ireland) Order 2003;

“Scotland” includes—

- (a) so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Scotland,

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<sup>(41)</sup> 1964 c.29. This provision was amended by section 37 and paragraph 1 of Schedule 3 to the Oil and Gas (Enterprise) Act 1982 (c.23).

- (b) a Renewable Energy Zone, or any part of such a Zone, which is designated by order under section 84(5) of the Energy Act 2004(42).

### **Electricity supplied to customers in Northern Ireland**

47. No ROCs certifying the matters within section 32B(4) or (6) of the Act are to be issued where the Northern Ireland authority has notified the Authority that it is not satisfied that the electricity in respect of which the ROCs are to be issued has been supplied to customers in Northern Ireland.

### **Combustion units in relation to which a capacity agreement has been issued**

48.—(1) This article applies to a combustion unit which is included in a generating CMU in respect of which a capacity agreement has been issued (the “relevant capacity agreement”).

(2) ROCs are not to be issued in respect of any electricity generated by a combustion unit to which this article applies unless—

- (a) a capacity market transfer notice has been given to the Authority by the operator of the generating station in respect of the combustion unit, and
- (b) paragraph (4) or (5) applies in relation to the electricity.

(3) A capacity market transfer notice is a notice which—

- (a) is in writing,
- (b) identifies the combustion unit to which it relates,
- (c) states the date on which the relevant capacity agreement was issued, and
- (d) states the date of commencement of the delivery year, or first delivery year, for which that capacity agreement was issued (“the capacity market participation date”).

(4) This paragraph applies in relation to electricity generated—

- (a) in a month in which the combustion unit burns only biomass, and
- (b) before the capacity market transfer notice has come into force.

(5) This paragraph applies in relation to electricity generated—

- (a) in a month in which the combustion unit burns fossil fuel and biomass, and
- (b) before the capacity market participation date.

(6) For the purposes of paragraph (4), a capacity market transfer notice comes into force on the capacity market participation date stated in the notice unless the relevant capacity agreement has been terminated before the earliest of the capacity market participation date and 1st April 2017 (in which case the capacity market transfer notice never comes into force).

(7) For the purposes of paragraphs (4) and (5), no account is to be taken of any fossil fuel or waste which is used in the combustion unit for permitted ancillary purposes.

(8) Once a capacity market transfer notice has been received by the Authority it cannot be withdrawn.

(9) In this article, “capacity agreement”, “generating CMU” and “delivery year” have the same meaning as in the Electricity Capacity Regulations 2014(43).

(42) 2004 c.20. The Renewable Energy Zone (Designation of Area) (Scottish Ministers) Order 2005 (S.I. 2005/3153) has been made under section 84(5).

(43) S.I. 2014/2043, amended by S.I. 2015/875. See regulations 2(1), 4 and 30(1).

### **Electricity in respect of which a CFD or investment contract applies**

**49.** ROCs are not to be issued in respect of any electricity in respect of which a CFD or investment contract applies.

### **Combustion units in relation to which a CFD or investment contract has been entered into**

**50.**—(1) This article applies to a combustion unit in relation to which—

- (a) a CFD has been entered into, or
- (b) an investment contract—
  - (i) has been entered into, and
  - (ii) has not been terminated (or otherwise ceased to have effect) by reason of a permitted termination event.

(2) ROCs are not to be issued in respect of any electricity generated by a combustion unit to which this article applies unless a CFD transfer notice has been given to the Authority by the operator of the generating station in respect of the combustion unit.

(3) A CFD transfer notice is a notice which—

- (a) is in writing,
- (b) identifies the combustion unit to which it relates,
- (c) states the date from which the operator of the generating station intends to start using that combustion unit to generate electricity only from biomass (“the conversion date”), and
- (d) states the date on which a CFD or investment contract was entered into in relation to that combustion unit.

(4) Once a CFD transfer notice has been received by the Authority it cannot be withdrawn unless

- (a) the CFD transfer notice relates to a combustion unit in relation to which an investment contract has been entered into,
- (b) the investment contract has been terminated (or has otherwise ceased to have effect) by reason of a permitted termination event,
- (c) the CFD transfer notice was given to the Authority before the investment contract was terminated or otherwise ceased to have effect, and
- (d) the withdrawal of the CFD transfer notice is made by notice in writing to the Authority by the operator of the generating station of which the combustion unit forms part.

(5) Subject to paragraph (6), the operator of a generating station may change the conversion date stated in a CFD transfer notice in respect of a combustion unit at the generating station by giving notice to the Authority in writing.

(6) The conversion date stated in a CFD transfer notice cannot be changed—

- (a) after 31st March 2027,
- (b) after the CFD transfer notice has come into force, or
- (c) if a CFD made in relation to the combustion unit to which the CFD transfer notice relates has been terminated or otherwise ceased to have effect.

(7) For the purposes of this article, a CFD transfer notice comes into force—

- (a) on the conversion date stated in the CFD transfer notice, or
- (b) if earlier, as from the start of the first month—
  - (i) which is after March 2014, and



(ii) during which the combustion unit to which the CFD transfer notice relates burns only biomass.

(8) For the purpose of paragraph (7)(b)(ii), no account is to be taken of any fossil fuel or waste which is used in the combustion unit for permitted ancillary purposes.

### **Generating stations supported or potentially eligible for support under a feed-in tariff scheme**

**51.**—(1) ROCs are not to be issued in respect of any electricity generated by a microgenerator if that microgenerator—

- (a) is a hydro generating station, or
- (b) generates electricity from—
  - (i) gas formed by the anaerobic digestion of material which is neither sewage nor material in a landfill,
  - (ii) the direct conversion of sunlight into electricity, or
  - (iii) wind.

(2) Subject to paragraph (3), ROCs are not to be issued in respect of any electricity generated by a generating station—

- (a) if support has been given under a feed-in tariff scheme for the generation of electricity by the station, or
- (b) if, before the application for accreditation of the station was determined, the Authority was notified in writing by a relevant person that support for electricity generated by the station should be given in the form of financial incentives under a feed-in tariff scheme.

(3) Paragraph (2) does not prevent the issue of ROCs in respect of electricity generated by a generating station if financial incentives are not available under a feed-in tariff scheme for that electricity by virtue of the size of the station's total installed capacity.

(4) In this article—

“relevant person”, in relation to a generating station, means—

- (a) the operator of the station, or
- (b) a person who is entitled to receive financial incentives under a feed-in tariff scheme in respect of that station.

### **Generating stations in respect of which a NFFO arrangement applied but was terminated**

**52.**—(1) This article applies where—

- (a) a NFFO arrangement (“the applicable NFFO arrangement”) provided for the building of a generating station at a specified location (“the location”),
- (b) the applicable NFFO arrangement was terminated due to the operator of the generating station to which it applied having committed an unremedied breach of it, and
- (c) the last period in the tables contained in Schedule 1 to the Non-Fossil Fuel Order which relates to the applicable NFFO arrangement has not expired.

(2) Subject to paragraph (3), where this article applies, ROCs are not to be issued in respect of any electricity generated by a generating station—

- (a) which is situated wholly or partly at the location,
- (b) to which the applicable NFFO arrangement applied at the time it was commissioned, and
- (c) which is owned or operated by a person—

- (i) who was a party to the applicable NFFO arrangement, or
- (ii) who is a connected person or a linked person in relation to any such party.

(3) Paragraph (2) does not apply in relation to electricity generated by a generating station in a month in which all of the electricity generated by that station is sold pursuant to another NFFO arrangement.

#### **Non-commissioned generating stations in respect of which a NFFO arrangement applies**

**53.**—(1) This article applies where a NFFO arrangement (“the applicable NFFO arrangement”) provides for the building of a generating station (“the specified station”) at a specified location (“the location”) and the specified station has not been commissioned.

(2) Subject to paragraph (3), where this article applies, ROCs are not to be issued in respect of any electricity generated by a generating station which—

- (a) is situated wholly or partly at the location, and
- (b) is owned or operated by a person—
  - (i) who is a party to the applicable NFFO arrangement, or
  - (ii) who is a connected person or a linked person in relation to any such party.

(3) Paragraph (2) does not apply in relation to electricity generated by a generating station in a month in which all of the electricity generated by that station is sold pursuant to another NFFO arrangement.

#### **Large hydro generating stations first commissioned on or before 1st April 2002**

**54.**—(1) ROCs are not to be issued in respect of any electricity generated by a large hydro generating station if the station was first commissioned on or before 1st April 2002.

(2) In this article, “large hydro generating station” means a hydro generating station which has, or has had at any time since 1st April 2002, a declared net capacity of more than 20 megawatts.

#### **Generating stations first commissioned before 1st January 1990**

**55.**—(1) This article applies to a generating station—

- (a) which was first commissioned before 1st January 1990,
- (b) the main components of which have not been renewed since 31st December 1989, and
- (c) which is not a micro hydro generating station.

(2) ROCs are not to be issued in respect of any electricity generated in any month by a generating station to which this article applies unless all of the electricity generated by that station during that month—

- (a) is generated partly from fossil fuel (other than renewable waste) and partly from renewable sources which consist wholly of—
  - (i) biomass,
  - (ii) biomass and Solid Recovered Fuel, or
  - (iii) a liquid or gaseous fuel produced by means of gasification, pyrolysis or anaerobic digestion, or
- (b) is generated from biomass and the following conditions are met—
  - (i) where that station generated electricity in any month prior to April 2003, no less than 75% of the energy content of the fuel used to generate that electricity was derived from fossil fuel,

- (ii) the first month in which all of the electricity generated by that station was generated from biomass occurred after March 2004, and
  - (iii) in relation to electricity generated in any month after that first month by that station, no more than 75% of the energy content of the fuel used to generate that electricity was derived from fossil fuel.
- (3) For the purposes of paragraph (1)(b), the main components of a generating station are only to be regarded as having been renewed since 31st December 1989—
- (a) in the case of a hydro generating station, where the following parts have been installed in the station after 31st December 1989 and were not used for the purpose of electricity generation prior to their installation—
    - (i) all the turbine runners or all the turbine blades or the propeller, and
    - (ii) all the inlet guide vanes or all the inlet guide nozzles;
  - (b) in the case of any other generating station, where all the boilers and turbines (driven by any means including wind, water, steam or gas) have been installed in the station after 31st December 1989 and were not used for the purpose of electricity generation prior to their installation.
- (4) In determining how electricity has been generated for the purposes of paragraph (2), no account is to be taken of any fossil fuel or waste which the generating station uses for permitted ancillary purposes.
- (5) In this article, “micro hydro generating station” means a hydro generating station which—
- (a) has a declared net capacity of 1.25 megawatts or less, and
  - (b) has never generated electricity under an arrangement which has ever been a qualifying arrangement as defined in section 33 of the Act (as that section was originally enacted).

#### **Generating stations using peat**

**56.** ROCs are not to be issued in respect of any electricity generated by a generating station during a month in which it generates electricity wholly or partly from peat.

#### **Generating stations using landfill gas**

**57.** ROCs are not to be issued in respect of any electricity generated by a generating station from landfill gas unless the electricity is generated—

- (a) by a generating station to which article 34 applies,
- (b) using pre-2013 capacity,
- (c) in the way described in Schedule 5 as “closed landfill gas”, or
- (d) using the heat from a turbine or engine.

#### **Generating stations using gaseous fuel produced by means of gasification or pyrolysis**

**58.—**(1) ROCs are not to be issued in respect of any electricity generated by a generating station from a gaseous fuel produced by means of gasification or pyrolysis unless—

- (a) the generating station is an excepted generating station, or
- (b) the gaseous fuel has a gross calorific value of at least 2 megajoules per metre cubed at 25 degrees Celsius and 0.1 megapascals when measured at the inlet to the generating station.

(2) In this article, “excepted generating station” means a generating station—

- (a) which was accredited on or before 31st March 2011,

- (b) which since being accredited, has not ceased to be accredited at any time, and
- (c) in respect of which, if it was not accredited as at 31st March 2009, preliminary accreditation was held on and from that date until the date on which it was accredited.

#### **Generating stations using Solid Recovered Fuel**

**59.** ROCs are not to be issued in respect of any electricity generated by a generating station from Solid Recovered Fuel unless—

- (a) the Solid Recovered Fuel constitutes biomass, or
- (b) the generating station is a qualifying CHP station.

#### **Generating stations using waste or fossil fuel**

**60.**—(1) ROCs are not to be issued in respect of any electricity generated by a generating station during a month in which it generates electricity wholly from renewable sources which consist of or include waste unless—

- (a) the waste is biomass,
- (b) the waste is a liquid consisting wholly or mainly of hydrocarbon compounds,
- (c) the waste is in the form of a liquid or gaseous fuel produced by means of gasification, pyrolysis or anaerobic digestion, or
- (d) the station is a qualifying CHP station.

(2) ROCs are not to be issued in respect of any electricity generated by a generating station during a month in which it generates electricity partly from renewable sources, and partly from fossil fuel other than renewable waste, unless—

- (a) the renewable sources used by the station during the month in question consist of—
  - (i) biomass,
  - (ii) biomass and Solid Recovered Fuel, or
  - (iii) a liquid or gaseous fuel produced by means of gasification, pyrolysis or anaerobic digestion; and
- (b) any waste used by the station during that month is—
  - (i) biomass,
  - (ii) liquid consisting wholly or mainly of hydrocarbon compounds,
  - (iii) in the form of a liquid or gaseous fuel produced by means of gasification, pyrolysis or anaerobic digestion, or
  - (iv) Solid Recovered Fuel.

(3) In determining how electricity has been generated for the purposes of this article, no account is to be taken of any fossil fuel or waste which the generating station uses for permitted ancillary purposes.

#### **Circumstances in which ROCs must not be issued in respect of electricity generated from bioliquid**

**61.**—(1) ROCs are not to be issued in respect of any electricity generated by a generating station from bioliquid unless the bioliquid meets the greenhouse gas criteria and the land criteria.

(2) It is for the operator of the generating station to demonstrate to the Authority's satisfaction that the bioliquid meets the greenhouse gas criteria and the land criteria.

(3) Where paragraph (4) applies to a consignment of bioliquid, a mass balance system must be used for the purpose of demonstrating that the bioliquid meets the greenhouse gas criteria and the land criteria.

(4) This paragraph applies to a consignment of bioliquid where—

- (a) the consignment of bioliquid was withdrawn from a mixture containing consignments of bioliquid with differing sustainability profiles, or
- (b) consignments of the biomaterial from which the consignment of bioliquid was made were withdrawn from a mixture containing consignments of biomaterial with differing sustainability profiles.

(5) For the purposes of this article—

- (a) a mass balance system is a system which—
  - (i) provides for the sustainability profiles of the consignments of bioliquid or biomaterial added to a mixture to be attributed to the consignments withdrawn from that mixture, and
  - (ii) requires the sustainability profile attributed to the sum of all the consignments withdrawn from a mixture to be the same, and in the same quantities, as the sustainability profile of the sum of all the consignments added to that mixture;
- (b) the sustainability profile of a consignment of bioliquid is information identifying—
  - (i) the material of which the bioliquid is composed, and
  - (ii) the proportion that meets the greenhouse gas criteria and the land criteria;
- (c) the sustainability profile of a consignment of biomaterial is—
  - (i) information identifying the material of which the biomaterial is composed, and
  - (ii) information relating to the biomaterial to be used for the purpose of determining whether bioliquid made from the biomaterial meets the greenhouse gas criteria and the land criteria.

### **Common agricultural policy requirements in the case of bioliquids**

**62.** ROCs are not to be issued in respect of any electricity generated by a generating station from bioliquid if—

- (a) the bioliquid is derived from biomaterial which—
  - (i) is of agricultural origin,
  - (ii) was cultivated in the EU, and
  - (iii) is not waste, and
- (b) the Authority is satisfied that the biomaterial referred to in sub-paragraph (a) was—
  - (i) cultivated in a manner that breached a requirement or standard listed in the third column of the table in Annex 2 to Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy<sup>(44)</sup> (“the 2013 Regulation”) and corresponding to the entry in the first column of that table for “environment, climate change, good agricultural condition of land”,
  - (ii) cultivated in a manner that breached statutory management requirement number 10 in Annex 2 to the 2013 Regulation, or

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<sup>(44)</sup> OJ No L 347, 20.12.13, p549.

- (iii) obtained from land which does not meet the minimum requirements for good agricultural and environmental condition defined pursuant to Article 94 of the 2013 Regulation.

### **Circumstances in which ROCs must not be issued in respect of electricity generated from solid or gaseous biomass**

**63.**—(1) This article applies to biomass (other than animal excreta, bioliquid, landfill gas, sewage gas or waste).

(2) ROCs are not to be issued in respect of any electricity generated by a generating station from biomass to which this article applies unless—

- (a) the generating station has a total installed capacity of less than 1 megawatt, or
- (b) the biomass meets the greenhouse gas criteria and the land criteria.

### **Cases where a renewables obligation certificate has already been issued**

**64.** ROCs are not to be issued in respect of any electricity in respect of which—

- (a) a ROC has already been issued and has not been revoked, or
- (b) a renewables obligation certificate has already been issued under a renewables obligation order made by the Scottish Ministers (whether or not that renewables obligation certificate has been revoked).

### **Cases and circumstances when a ROC must not be issued: general provisions**

**65.**—(1) Subject to paragraph (2), where by virtue of this Part ROCs are not to be issued in respect of part of the electricity generated by a generating station and that electricity is not measured separately from the remainder of the electricity generated by the station, the operator of the station must provide the Authority with an estimate of the amount of electricity generated by the station in respect of which ROCs are not to be issued.

(2) The estimate must be produced using a methodology which—

- (a) has been agreed with the Authority, and
- (b) in the Authority’s opinion, is unlikely to underestimate the amount of electricity in respect of which ROCs are not to be issued.

## **PART 8**

### **Payments to discharge the renewables obligation, dealing with the buy-out and late payment funds, and mutualisation**

#### **Interpretation**

**66.**—(1) In this Part—

“buy-out fund” means the fund held by the Authority on the 1st September in the settlement period, being the aggregate of—

- (a) amounts received by the Authority under article 67 relating to the renewables obligation for the relevant period,
- (b) amounts held by the Authority by virtue of articles 70(4)(b), 71(4), 76(5) and 77(6)(b), and

(c) any interest earned on those amounts;

“compliant UK supplier” means a UK supplier which, at the end of the late payment period, has discharged or is treated as if it had discharged in full every UK renewables obligation imposed on it in respect of the relevant period;

“GBRO costs” means the costs which have been or are expected to be incurred by the Authority in connection with the performance of any of its functions conferred by or under sections 32 to 32M of the Act during the settlement period;

“instalment payment” is to be construed in accordance with article 74(5);

“late payment fund” is the fund held by the Authority on the 1st November of the settlement period, being the aggregate of—

(a) amounts received by the Authority during that period under article 68 relating to the renewables obligation for the relevant period, and

(b) any interest earned on those amounts;

“late payment period” means the period beginning with the 1st September and ending with the 31st October in the settlement period;

“mutualisation fund” means the aggregate at any given time of the amounts (excluding any amounts repaid under article 76(2)) received by the Authority under articles 74 and 76 (together with any interest earned on those amounts) in relation to the relevant period;

“mutualisation period” means the obligation period immediately following the settlement period;

“NIRO costs” means the costs which have been or are expected to be incurred by the Northern Ireland authority in connection with the performance of any of its functions conferred by or under Articles 52 to 55F of the Energy (Northern Ireland) Order 2003 during a period which, in any order made under those Articles, corresponds to the settlement period;

“non-compliant UK supplier” means a UK supplier which, at the end of the late payment period, has not discharged or is not treated as if it had discharged in full every UK renewables obligation imposed on it in respect of the relevant period;

“recalculated supplier payment” is to be construed in accordance with article 75(5);

“the relevant period” is to be construed in accordance with article 67(1);

“relevant shortfall” is to be construed in accordance with article 72(3);

“relevant supplier” means an electricity supplier which was a designated electricity supplier in the relevant period and which at the end of the late payment period had discharged or is treated as if it had discharged the whole or part of its renewables obligation for the relevant period;

“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 month, any substituted index or figures published by the Office of National Statistics;

“settlement period” is to be construed in accordance with article 67(1);

“shortfall” is to be construed in accordance with article 72(2);

“supplier payment” is to be construed in accordance with article 74(3);

“total mutualisation sum” is to be construed in accordance with article 73;

“total UK buy-out fund” means the fund existing on the 1st September of the settlement period, being the aggregate of—

- (a) the buy-out fund held on that date,
- (b) any fund provided for in a renewables obligation order made by the Scottish Ministers which corresponds to the buy-out fund held on that date, and
- (c) any fund provided for in an order made under Articles 52 to 55F of the Energy (Northern Ireland) Order 2003 which corresponds to the buy-out fund held on that date;

“UK renewables obligation” means—

- (a) the renewables obligation imposed by article 7 of this Order,
- (b) a renewables obligation imposed by a renewables obligation order made by the Scottish Ministers, or
- (c) a renewables obligation imposed on Northern Ireland suppliers in an order made under Articles 52 to 55F of the Energy (Northern Ireland) Order 2003;

“UK supplier” means—

- (a) a designated electricity supplier,
- (b) any electricity supplier on which a UK renewables obligation is imposed under a renewables obligation order made by the Scottish Ministers, and
- (c) any designated electricity supplier within the meaning of Article 52(2) of the Energy (Northern Ireland) Order 2003.

(2) In this Part, references to the late payment period, the mutualisation period, the relevant period and the settlement period, when used in the context of a UK supplier subject to a UK renewables obligation, are to be construed (where the UK supplier is not a designated electricity supplier)—

- (a) in the case of an electricity supplier on which a UK renewables obligation is imposed under a renewables obligation order made by the Scottish Ministers, as references to the period which corresponds to the late payment, mutualisation, relevant or (as the case may be) settlement period in that order;
- (b) in the case of an electricity supplier on which a UK renewables obligation is imposed under an order made under Articles 52 to 55F of the Energy (Northern Ireland) Order 2003, as references to the period which corresponds to the late payment, mutualisation, relevant or (as the case may be) settlement period in the order under which that UK renewables obligation is imposed.

(3) Any sum payable by suppliers under articles 67(1), 68(6), 74 or 76(1) is to be rounded to the nearest penny, with any half of a penny being rounded upwards.

### **Payments to discharge the renewables obligation**

**67.**—(1) A designated electricity supplier may (in whole or in part) discharge its renewables obligation for an obligation period (“the relevant period”) by making a payment to the Authority before the 1st September in the following obligation period (“the settlement period”).

- (2) The payment referred to in paragraph (1) is an amount equal to  $\text{£}X \times (Y - Z)$  where—
  - (a) X is the sum which corresponds to a UK ROC by virtue of paragraph (4);
  - (b) Y is the number of UK ROCs that the designated electricity supplier, if it makes no payment under paragraph (1), would have to produce to the Authority in order for it to discharge its renewables obligation for the relevant period in full; and
  - (c) Z is the number of UK ROCs that it has produced to the Authority for that period (or, where it has not produced any, zero).

(3) Where a designated electricity supplier makes a payment to the Authority which is less than the amount calculated under paragraph (2), its renewables obligation for the relevant period will



be discharged by that payment to the extent of the appropriate number of UK ROCs, which is the quotient obtained by dividing the payment made by the sum which corresponds to a UK ROC by virtue of paragraph (4).

- (4) The sum which corresponds to a UK ROC (“the buy-out price”) is—
- (a) for the relevant period commencing with 1st April 2016, £44.33 increased or, as the case may be, decreased by the percentage increase or decrease in the retail prices index over the 12 month period ending with 31st December 2015 (the resulting figure being rounded to the nearest penny, with any half of a penny being rounded upwards), and
  - (b) for each obligation period thereafter, the buy-out price for the previous obligation period increased or, as the case may be, decreased by the percentage increase or decrease in the retail prices index over the 12 month period ending with the 31st December in the previous obligation period (the resulting figure being rounded to the nearest penny, with any half of a penny being rounded upwards).

### **Late payments to discharge the renewables obligation**

**68.**—(1) Where a designated electricity supplier fails (in whole or in part) to discharge its renewables obligation for the relevant period before the 1st September in the settlement period, the Authority must notify it of the extent of its default as soon as is reasonably practicable on or after that date.

(2) The extent of the designated electricity supplier’s default is an amount equal to the amount calculated under article 67(2) less any amount that the designated electricity supplier has paid to the Authority under article 67.

(3) Interest is payable on that amount (or, where all or part of it is paid to the Authority before the end of the late payment period, such part of that amount as remains unpaid) during the late payment period.

(4) That interest is to be calculated on a daily basis at 5 percentage points above the base rate charged by the Bank of England on the first day of the late payment period.

(5) Any payment made by a designated electricity supplier towards discharging its default under paragraph (2) will be applied first to any interest that is payable under paragraph (3).

(6) If, by the end of the late payment period, the designated electricity supplier has paid to the Authority under this article the amount referred to in paragraph (2) and all interest required to be paid on that amount under paragraph (3), it will be treated as having discharged its renewables obligation for the relevant period.

(7) If, by the end of the late payment period, the designated electricity supplier has not paid to the Authority the amount referred to in paragraph (2) and all interest required to be paid on that amount under paragraph (3), the supplier will not have discharged its renewables obligation for the relevant period.

(8) The Authority must not, during the late payment period, impose a penalty under section 27A(1) of the Act<sup>(45)</sup> on any supplier in respect of that supplier’s failure to discharge its renewables obligation in full before the 1st September in the settlement period.

(9) In paragraph (4) “base rate” means the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate.

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<sup>(45)</sup> Section 27A of the Act was inserted by section 59(1) of the Utilities Act 2000 (c.27). Section 27A(1) has been amended by regulation 39 of S.I. 2011/2704 and article 9 of S.I. 2000/3343.

### **Dealing with the buy-out fund: payments into the Consolidated Fund and to the Northern Ireland authority**

**69.**—(1) Subject to paragraph (2), before the 1st November in the settlement period the Authority must pay—

- (a) into the Consolidated Fund the proportion of the buy-out fund which is equal to the proportion which the GBRO costs bear to the total UK buy-out fund; and
- (b) to the Northern Ireland authority the proportion of the buy-out fund which is equal to the proportion which the NIRO costs bear to the total UK buy-out fund.

(2) Where the aggregate of the amounts to be paid by the Authority under paragraph (1) would exceed the buy-out fund, before the 1st November of the settlement period the Authority must pay the buy-out fund into the Consolidated Fund and to the Northern Ireland authority in the same ratio as the GBRO costs bear to the NIRO costs.

(3) Where any amount to be paid under paragraph (1) or (2) is not a whole number when expressed in terms of pounds sterling, it is to be rounded down to the nearest pound sterling.

(4) Where the buy-out fund exceeds the aggregate of the amounts to be paid by the Authority under paragraph (1), the Authority must pay the balance of the buy-out fund to UK suppliers under and in accordance with article 71 by the 1st November in the settlement period.

### **Dealing with the late payment fund: payments into the Consolidated Fund and to the Northern Ireland authority**

**70.**—(1) Subject to paragraph (2), where the buy-out fund has been paid into the Consolidated Fund and to the Northern Ireland authority under article 69(2), before the 1st January in the settlement period the Authority must pay from the late payment fund—

- (a) into the Consolidated Fund an amount which is equal to the difference between the amount that was paid into the Consolidated Fund under article 69(2) and the amount that would have been paid into it under article 69(1) had the aggregate of the amounts to be paid by the Authority under article 69(1) not exceeded the buy-out fund; and
- (b) to the Northern Ireland authority an amount which is equal to the difference between the amount that was paid to it under article 69(2) and the amount that would have been paid to it under article 69(1) had the aggregate of the amounts to be paid by the Authority under article 69(1) not exceeded the buy-out fund.

(2) Where the aggregate of the amounts to be paid by the Authority under paragraph (1) would exceed the late payment fund, before the 1st January of the settlement period the Authority must pay the late payment fund into the Consolidated Fund and to the Northern Ireland authority in the same ratio as the GBRO costs bear to the NIRO costs.

(3) Where any amount to be paid under paragraph (1) or (2) is not a whole number when expressed in terms of pounds sterling, it is to be rounded down to the nearest pound sterling.

(4) Where, after any payments required to be made during the settlement period under paragraph (1) or (2) have been made, the Authority—

- (a) holds more than £50,000 in the late payment fund, the Authority must pay the late payment fund to UK suppliers under and in accordance with article 71 by the 1st January in the settlement period;
- (b) holds £50,000 or less in the late payment fund, the Authority must retain that money, which is to constitute part of the buy-out fund held in the obligation period immediately following the settlement period.

### **Dealing with the buy-out and late payment funds: payments to UK suppliers**

71.—(1) Each UK supplier must be paid a proportion of the amount (if any) that the Authority is required to pay to UK suppliers by virtue of article 69(4) or 70(4)(a) by the dates in the settlement period specified in those articles.

(2) The proportion referred to in paragraph (1) is  $A \div B$  where—

- (a) A is the number of UK ROCs produced by the UK supplier to the Authority or Northern Ireland authority in order to discharge (in whole or in part) any UK renewables obligation to which it was subject in the relevant period; and
- (b) B is the total number of UK ROCs produced by UK suppliers to the Authority or to the Northern Ireland authority in order to discharge (in whole or in part) any UK renewables obligations to which they were subject in that period.

(3) Where any amount to be paid under this article is not a whole number when expressed in terms of pounds sterling, it is to be rounded down to the nearest pound sterling.

(4) Where by virtue of the operation of paragraph (3) the Authority continues to hold any sum which otherwise would have been paid out under this article that sum is to be retained by the Authority and is to constitute part of the buy-out fund held in the obligation period immediately following the settlement period.

### **Determining whether a relevant shortfall has occurred**

72.—(1) As soon as reasonably practicable after the 31st October in the settlement period, the Authority must—

- (a) determine whether a shortfall has occurred (within the meaning of paragraph (2)); and
- (b) where such a shortfall has occurred and is a relevant shortfall (within the meaning of paragraph (3)), calculate the total sum to be recovered from relevant suppliers (“the total mutualisation sum”).

(2) A shortfall occurs in relation to the relevant period where the amount referred to in sub-paragraph (a) is less than the amount referred to in sub-paragraph (b) and is the difference between the two—

- (a) the amount referred to in this sub-paragraph is the sum of—
  - (i) the amount held in the buy-out fund on the 1st September in the settlement period, and
  - (ii) the amount held in the late payment fund on 31st October in that period (excluding from that amount any interest paid pursuant to article 68(3)); and
- (b) the amount referred to in this sub-paragraph is what the amount referred to in sub-paragraph (a) would have been if, on 31st October in the settlement period, each designated electricity supplier which, at the end of the late payment period, has not (and is not treated as having) discharged its renewables obligation in full were to pay to the Authority the amount notified to it by the Authority under article 68(1).

(3) A shortfall is a relevant shortfall if it is equal to, or in excess of, £15,400,000.

### **Calculating the total mutualisation sum in the case of a relevant shortfall**

73.—(1) Subject to paragraphs (2) to (4), where a relevant shortfall has occurred in relation to the relevant period, the total mutualisation sum for that period is the amount of that shortfall.

(2) Where any non-compliant UK supplier has produced UK ROCs to the Authority or the Northern Ireland authority in order to discharge, in part, any UK renewables obligation to which it was subject in the relevant period, the total mutualisation sum for that period is equal to

$$S - \left( S \times \frac{C}{D} \right)$$

where—

- (a) S, subject to paragraphs (3) and (4), is the amount of the shortfall;
  - (b) C is the number of UK ROCs produced by non-compliant UK suppliers to the Authority or the Northern Ireland authority in order to discharge, in part, any UK renewables obligation to which they were subject in the relevant period; and
  - (c) D is the total number of UK ROCs produced by UK suppliers to the Authority or to the Northern Ireland authority in order to discharge, in whole or in part, any UK renewables obligation to which they were subject in the relevant period.
- (3) If the total mutualisation sum for the relevant period has to be recalculated by virtue of article 75(5), for the purposes of that recalculation (whether under paragraph (1) or (2)) the amount of the shortfall is to be reduced by the sum of all payments mentioned in article 75(1)(b) received by UK suppliers.
- (4) For the purposes of calculating or recalculating the total mutualisation sum for the relevant period, the amount (if any) by which the shortfall in relation to that period exceeds the mutualisation cap for that period is to be disregarded.
- (5) The mutualisation cap for the relevant period depends on which obligation period constitutes the relevant period and is—
- (a) for the relevant period commencing with 1st April 2016, the 2015/16 mutualisation cap increased or, as the case may be, decreased by the percentage increase or decrease in the retail prices index over the 12 month period ending on 31st December 2015 (the resulting figure being rounded to the nearest penny, with any half of a penny being rounded upwards); and
  - (b) for each obligation period thereafter, the mutualisation cap for the previous obligation period increased or, as the case may be, decreased by the percentage increase or decrease in the retail prices index over the 12 month period ending with the 31st December in the previous obligation period (the resulting figure being rounded to the nearest penny, with any half of a penny being rounded upwards).
- (6) In paragraph (5), the “2015/16 mutualisation cap” is £267,035,558.91.

#### **Payments to be made by suppliers towards the total mutualisation sum**

74.—(1) Where a relevant shortfall has occurred in relation to the relevant period, as soon as reasonably practicable after the 31st October in the settlement period the Authority must notify each relevant supplier of—

- (a) the amount of the shortfall,
  - (b) the total mutualisation sum, and
  - (c) the payment which that supplier is required to make under paragraph (3).
- (2) Where the Authority notifies relevant suppliers under paragraph (1) it must publish a notice stating the amount of the shortfall in relation to the relevant period and the total mutualisation sum.
- (3) Where a relevant shortfall has occurred in relation to the relevant period, each relevant supplier must make a payment to the Authority (a “supplier payment”).
- (4) The supplier payment for each relevant supplier is equal to

$$T \times \frac{E}{F}$$

where—

- (a) T is the total mutualisation sum,
  - (b) E is the number of UK ROCs that the supplier, if it had made no payments under article 67 or 68, would have had to produce to the Authority in order for it to have discharged its renewables obligation for the relevant period in full, and
  - (c) F is the total number of UK ROCs that all relevant suppliers, if none of them had made payments under articles 67 or 68 would have had to produce in order for each of them to discharge their renewables obligation for the relevant period in full.
- (5) Subject to article 75, each relevant supplier must make its supplier payment in the following instalments (“instalment payments”)—
- (a) 25% of the supplier payment required must be paid to the Authority before 1st September in the mutualisation period;
  - (b) 25% of the supplier payment must be paid to the Authority before 1st December in that period;
  - (c) 25% of the supplier payment must be paid to the Authority before 1st March in that period; and
  - (d) 25% of the supplier payment must be paid to the Authority before 1st June immediately following that period.
- (6) Where a person required to make a supplier payment—
- (a) fails to make payment in full, and
  - (b) at any time during or after the end of the relevant period ceases to hold a licence to supply electricity under section 6(1) of the Act<sup>(46)</sup>,

sections 25 to 28 of the Act<sup>(47)</sup> are to apply in respect of that person in respect of the obligations imposed by this article, as if that person still held a licence to supply electricity.

### **Circumstances in which payments towards the total mutualisation sum are to be re-calculated**

- 75.—(1) This article and article 76 apply where—
- (a) a relevant shortfall has occurred in relation to the relevant period, and
  - (b) a designated electricity supplier which failed to discharge its renewables obligation for the relevant period makes a payment to other UK suppliers which, if it had been made to the Authority under article 67 or 68, would have increased the amounts that those suppliers would have received under article 71 from the buy-out and late payment funds, that payment being designed to compensate those suppliers for that loss.
- (2) A designated electricity supplier which makes a payment mentioned in paragraph (1)(b) must, immediately after making the payment, notify the Authority—
- (a) of the names of the UK suppliers to which the payment was made,
  - (b) how much each UK supplier received, and

<sup>(46)</sup> Section 6 of the Act was substituted by section 30 of the Utilities Act 2000 (c.27). Section 6(1) has been amended by section 136, section 145 and paragraph 1 of Schedule 23 to the Energy Act 2004 (c.20) and by article 6(2) and (3) of S.I. 2012/2400.

<sup>(47)</sup> Sections 27A to 27F were inserted by section 59 of the Utilities Act 2000 (c.27) and sections 27G to 27O were inserted by paragraph 2 of Schedule 14 to the Energy Act 2013 (c.32).

(c) to which obligation period the payment relates.

(3) Any designated electricity supplier which receives a payment mentioned in paragraph (1)(b) must notify the Authority, immediately after receiving the payment, of the amount it received.

(4) Where a designated electricity supplier receives a payment from an electricity supplier supplying electricity in Scotland in relation to the electricity supplier's failure to discharge in full any UK renewables obligation imposed on it by a renewables obligation order made by the Scottish Ministers, the designated electricity supplier must notify the Authority, immediately after receiving the payment, of the amount it received.

(5) Where, before 1st August in the obligation period immediately following the mutualisation period, the Authority receives a notification under paragraph (2) or (3), relevant suppliers shall cease to be required to make instalment payments in respect of dates specified in article 74(5) which have not yet passed and the Authority must, as soon as is reasonably practicable—

- (a) recalculate the total mutualisation sum (in relation to the relevant period),
- (b) recalculate the supplier payment (in relation to the relevant period) which each relevant supplier is required to make (to take account of the recalculated total mutualisation sum),
- (c) calculate, in accordance with article 76, the payments (if any) suppliers are required to make under that article, and
- (d) notify each relevant supplier of—
  - (i) the recalculated total mutualisation sum,
  - (ii) its recalculated supplier payment, and
  - (iii) the payments (if any) the supplier is required to make under article 76.

#### **Re-calculated payments to be made by suppliers towards the total mutualisation sum and repayments by the Authority**

**76.**—(1) Where the sum of instalment payments already made by a relevant supplier is less than its recalculated supplier payment, the supplier must pay the difference between the two (“the outstanding amount”)—

- (a) where the only date mentioned in article 74(5) which has not yet passed is the final one, on that date;
- (b) where two or more of the dates mentioned in article 74(5) have not yet passed, in instalments on those dates (each instalment being equal to the outstanding amount divided by the number of dates which have not yet passed).

(2) Where the sum of instalment payments already made by a relevant supplier is more than the supplier's recalculated supplier payment and the Authority has received instalment payments, but has not yet paid out the mutualisation fund under article 77, the Authority must repay to the supplier from the mutualisation fund the difference between the amount that the supplier has paid (together with any interest earned on that amount) and the supplier's recalculated supplier payment.

(3) Where the Authority is required to repay sums to relevant suppliers in accordance with paragraph (2) and the mutualisation fund is insufficient to enable the Authority to repay each relevant supplier in full, the Authority must pay each relevant supplier an amount equal to

$$G - \left( G \times \frac{(H - J)}{H} \right)$$

where—

- (a) G is the amount which the supplier would have received under paragraph (2) had the amount in the mutualisation fund been sufficient to enable the Authority to repay each relevant supplier in full,
  - (b) H is the sum of all payments that relevant suppliers would have received under paragraph (2) had the amount in the mutualisation fund been sufficient to enable the Authority to repay each relevant supplier in full, and
  - (c) J is the amount in the mutualisation fund.
- (4) Where any amount to be paid under paragraph (2) or (3) is not a whole number when expressed in terms of pounds sterling, it is to be rounded down to the nearest pound sterling.
- (5) Where by virtue of the operation of paragraph (4) the Authority continues to hold any sum which otherwise would have been paid out under this article that sum is to be retained by the Authority and is to constitute part of the buy-out fund held in the obligation period immediately following the mutualisation period.

#### **Payments to be made to suppliers out of the mutualisation fund**

77.—(1) The Authority must pay out the mutualisation fund to compliant UK suppliers in accordance with paragraphs (2) to (6).

- (2) When there is money in it, the mutualisation fund is to be paid out by—
- (a) 1st November in the mutualisation period;
  - (b) 1st February in that period;
  - (c) 1st May immediately following that period; and
  - (d) 1st August immediately following that period.
- (3) On each occasion the mutualisation fund is paid out, each compliant UK supplier must be paid a proportion of the mutualisation fund.
- (4) The proportion referred to in paragraph (3) is  $A \div K$  where—
- (a) A is the number of UK ROCs produced by the compliant UK supplier to the Authority or Northern Ireland authority in order to discharge (in whole or in part) any UK renewables obligation to which it was subject in the relevant period, and
  - (b) K is the total number of UK ROCs produced by all compliant UK suppliers to the Authority or Northern Ireland authority in order to discharge (in whole or in part) any UK renewables obligation to which they were subject in that period.
- (5) Where any amount to be paid under this article is not a whole number when expressed in terms of pounds sterling, it is to be rounded down to the nearest pound sterling.
- (6) Where following the making of a payment to compliant UK suppliers the Authority continues, by virtue of the operation of paragraph (5), to hold any sum which otherwise would have been paid out under this article—
- (a) the Authority must pay out that sum along with the next payment to be made under this article in respect of the relevant period; or
  - (b) where there are no further payments to be made under this article in respect of the relevant period that sum is to be retained by the Authority and is to constitute part of the buy-out fund held in the obligation period immediately following the mutualisation period.

## PART 9

### Provision of information

#### **Provision of information required by the Authority to carry out its functions**

**78.**—(1) The Authority may, by the date (if any) specified by it, require any person who—

- (a) is the operator of a generating station generating electricity in respect of which a ROC has been or may be issued,
- (b) supplies, distributes or transmits such electricity, or
- (c) buys or sells (as a trader) such electricity or ROCs,

to provide it with such information as in its opinion it requires in order to carry out any of its functions under this Order.

(2) Information requested under paragraph (1) must be given to the Authority in whatever form it requires.

#### **Provision of information to determine whether a supplier is discharging its renewables obligation**

**79.**—(1) Without prejudice to article 78, the Authority may, by the date (if any) specified by it, require a designated electricity supplier to provide it with information which in its opinion is relevant to the question whether the supplier is discharging, or has discharged, its renewables obligation.

(2) Without prejudice to paragraph (1) and article 78, each designated electricity supplier must provide the Authority with—

- (a) estimates of the amount of electricity it has supplied to customers in England and Wales during each month of an obligation period by no later than the 1st June following that period;
- (b) figures showing the amount of electricity it has actually supplied to customers in England and Wales during each month of an obligation period by no later than the 1st July following that period; and
- (c) an estimate of the number of UK ROCs it believes it would be required to produce to the Authority in order to discharge its renewables obligation for an obligation period if it did not discharge its renewables obligation for that period (in whole or in part) by some other means by no later than the 1st July following that period.

(3) When giving the information referred to in paragraph (2)(a) and (b), a designated electricity supplier must have regard to any sales figures relating to the electricity in respect of which it is giving that information which it has provided (or intends to provide) to the Department of Energy and Climate Change for publication in “Energy Trends”(48).

(4) Information requested under or required to be provided by this article must be given to the Authority in whatever form it requires.

(5) Any information provided to the Authority under this article must be provided to the Secretary of State at the same time.

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(48) ‘Energy trends’ is a quarterly bulletin published by the Department of Energy and Climate Change containing statistics on major aspects of energy in the UK.



### **Provision of information to determine whether a ROC is to be, or should have been, issued**

**80.**—(1) Without prejudice to article 78, the Authority may, by the date (if any) specified by it, require a person to provide it with information which in its opinion is relevant to the question whether a ROC is, or was or will in future be, required to be issued to the person.

(2) Without prejudice to paragraph (1) and article 78, for the purposes of determining the RO eligible renewable output of a generating station in a month (“the relevant month”) the operator of the station must provide the Authority with figures showing—

- (a) the total input electricity and the RO input electricity used by the station in the relevant month, and
- (b) the total output electricity and the RO output electricity of the station in that month,

by the end of the second month following the relevant month (and those figures may be estimated if the Authority has agreed to estimates being provided and to the way in which those estimates are to be calculated).

(3) Nothing in paragraph (2) prevents the Authority from accepting figures, or further figures, provided after the end of the second month following the relevant month if the Authority considers it appropriate to do so.

(4) Without prejudice to paragraph (1) and article 78, for the purposes of determining whether a ROC certifying the matters within section 32B(5), (6) or (8) of the Act should be issued the person to whom any such ROC would be issued must provide the Authority with—

- (a) a figure representing the amount of electricity in respect of which ROCs should (in that person’s opinion) be issued, and
- (b) the data on which that person relied in arriving at that figure.

(5) Information requested under or required to be provided by this article must be given to the Authority in whatever form it requires.

(6) Any information which—

- (a) is relevant to the question whether a ROC is to be issued, and
- (b) is requested by or required to be provided to the Authority under this article or article 78,

must be (in the Authority’s opinion) accurate and reliable.

(7) Where such information relates to the fuel used in the generation of that electricity and the fuel did not originate at the generating station, in determining whether that information is accurate and reliable the Authority must have regard to—

- (a) the distance over which the fuel was transported, and
- (b) the conditions under which the fuel was prepared and transported.

### **Notification by the operator of a low-range co-firing combustion unit**

**81.**—(1) The operator of a generating station which generates electricity by burning fuel in a combustion unit may notify the Authority in writing that, until such time as the notification is withdrawn, the energy content of any biomass burned in that combustion unit will be less than 50% of the energy content of all of the energy sources burned in that combustion unit.

(2) A notification under paragraph (1) constitutes sufficient evidence of the fact that the energy content of the biomass burned in the combustion unit referred to in the notification is less than 50% of the energy content of all the energy sources burned in that combustion unit.

(3) A notification under paragraph (1) may be withdrawn by a notice—

- (a) in writing from the operator of the generating station to the Authority, and
- (b) which specifies a date from which the withdrawal of the notification is to take effect.

### **Information to be provided to the Authority where electricity is generated from biomass**

**82.**—(1) This article applies to a generating station—

- (a) which generates electricity (wholly or partly) from biomass (other than municipal waste, landfill gas or sewage gas), and
- (b) which is not a microgenerator.

(2) In relation to each consignment of biomass (other than municipal waste, landfill gas or sewage gas) used in a generating station to which this article applies, the operator of the station must, by the 30th June immediately following the obligation period during which the biomass is used (“the relevant date”), provide the Authority with—

- (a) the information specified in paragraph (3),
- (b) other than in the case of biomass which was gas formed by the anaerobic digestion of material which was—
  - (i) animal excreta, or
  - (ii) waste,the information specified in paragraph (4), and
- (c) other than in the case of biomass which—
  - (i) was used in a generating station with a total installed capacity of at least 1 megawatt, or
  - (ii) was animal excreta, bioliquid or waste,the information specified in paragraph (5).

(3) The information specified in this paragraph is information identifying, to the best of the operator’s knowledge and belief—

- (a) the material from which the biomass was composed;
- (b) where the biomass was solid and can take different forms, the form of the biomass;
- (c) whether the biomass was animal excreta or waste;
- (d) where the biomass was plant matter or derived from plant matter, the country where the plant matter was grown; and
- (e) where the information specified in sub-paragraph (d) is not known or the biomass was not plant matter or derived from plant matter, the country from which the operator obtained the biomass.

(4) The information specified in this paragraph is information identifying, to the best of the operator’s knowledge and belief—

- (a) where the biomass was solid, its mass (in tonnes);
- (b) where the biomass was liquid, its volume (in litres) when measured at 25 degrees Celsius and 0.1 megapascals;
- (c) where the biomass was gas, its volume (in cubic metres) when measured at 25 degrees Celsius and 0.1 megapascals;
- (d) where the biomass was an energy crop and was not a bioliquid—
  - (i) the type of energy crop in question, and
  - (ii) the use of the land on which the biomass was grown in the year before the land was first used to grow energy crops; and
- (e) where the biomass was, or was derived from, wood and was not waste or bioliquid—
  - (i) the name of the forest or other location where that wood was grown,

- (ii) a description of the forestry management practices or land management practices used in the forest or other location where that wood was grown,
  - (iii) where any of the wood was likely to be a protected or threatened species, the name of that species and the proportion of the biomass that is likely to be composed of, or derived from, that species,
  - (iv) the proportion of the biomass that was, or was derived from, a saw log, and the specification adopted by the operator in accordance with paragraph (6) for the purpose of determining the proportion of the biomass that was, or was derived from, a saw log, and
  - (v) the proportion of the biomass that was, or was derived from, hardwood and the proportion that was, or was derived from, softwood.
- (5) The information specified in this paragraph is information identifying, to the best of the operator's knowledge and belief—
- (a) the greenhouse gas emissions from the use of the biomass to generate one megajoule of electricity;
  - (b) where the biomass does not meet the greenhouse gas criteria, the main reasons why biomass meeting the greenhouse gas criteria was not used;
  - (c) whether the biomass meets the land criteria;
  - (d) where the biomass does not meet the land criteria, the main reasons why biomass meeting the land criteria was not used; and
  - (e) where any of the information specified in sub-paragraphs (a) and (c) is not known—
    - (i) the main reasons why that information is not known, and
    - (ii) the main reasons why biomass for which that information is known was not used.
- (6) For the purposes of paragraph (4)(e)(iv), the operator of the generating station must adopt a specification which is identical to—
- (a) a specification for determining whether wood is a saw log—
    - (i) used by the sawmill closest to where the wood was grown, or
    - (ii) issued by a body exercising functions of a public nature and issued for use by sawmills in the area in which the wood was grown, or
  - (b) the specification in the second column of Table 1 of Forestry Commission Field Book 9 (other than the parts of that specification relating to “log category” and “species” set out in the first and second rows of that table).
- (7) For the purposes of paragraph (5)(a), the operator of the generating station must calculate the greenhouse gas emissions from the use of the biomass in accordance with paragraphs 3(a), 4 and 5 of Schedule 2.
- (8) Where, in relation to biomass used in a generating station to which this article applies, the operator of the station fails to provide the Authority with the information required by paragraph (2) by the relevant date, the Authority must, in relation to any ROCs to which the operator would otherwise be entitled, postpone the issue of those ROCs (up to the specified number) until such time as the information is provided.
- (9) For the purposes of paragraph (8), the specified number is the number of ROCs which the Authority has or estimates that it has or, but for this article, it would have issued in respect of the electricity generated by the biomass in relation to which the information required by paragraph (2) should have been provided.
- (10) In this article—

“Forestry Commission Field Book 9” means Forestry Commission Field Book 9, 2nd edition 1993, entitled “Classification and Presentation of Softwood Sawlogs”(49);

“protected or threatened species” means—

- (a) a species listed in Appendices I, II or III of the Convention on International Trade in Endangered Flora and Fauna(50), or
- (b) a species which is at risk of extinction; and

“saw log” means wood which is suitable for processing at a sawmill.

### **Bioliquld sustainability audit report**

**83.**—(1) This article applies to a generating station which generates electricity (wholly or partly) from bioliquld.

(2) In relation to each consignment of bioliquld used in a generating station to which this article applies, and in respect of which the operator has submitted sustainability information, the operator of the station must, by the 31st May immediately following the obligation period during which the bioliquld was used (“the relevant date”), provide the Authority with a sustainability audit report meeting the requirements specified in paragraph (3).

- (3) The requirements specified in this paragraph are that the sustainability audit report must—
- (a) be prepared by a person who is not—
    - (i) the owner or operator of the generating station; or
    - (ii) a connected person, in relation to the owner or operator of the generating station;
  - (b) consider whether the systems used to produce the sustainability information are likely to produce information which is reasonably accurate and reliable;
  - (c) consider whether there are controls in place to help protect the sustainability information against material misstatements due to fraud or error;
  - (d) consider the frequency and methodology of any sampling carried out for the purpose of obtaining or checking the data on which the operator relied in preparing the sustainability information;
  - (e) consider the robustness of the data on which the operator relied in preparing the sustainability information;
  - (f) state whether anything has come to the attention of the person preparing the report to indicate that the sustainability information is not accurate;
  - (g) be prepared to an adequate standard;
  - (h) identify whether the bioliquld was certified under an environmental quality assurance scheme, and if so—
    - (i) state the name of the scheme, and
    - (ii) identify whether the European Commission has adopted a decision under Article 18(4) of the Renewables Directive in respect of the scheme; and
  - (i) where the bioliquld was not derived from waste or residue and the actual value method or the mixed value method was used for the purpose of calculating the greenhouse gas emissions from the use of the bioliquld, identify—
    - (i) whether a restored degraded land bonus was included in the calculation of the greenhouse gas emissions from the use of the bioliquld, and

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(49) ISBN 0 11 710322 5. Copies are available at <https://www.gov.uk/government/consultations/biomass-sustainability>. Hard copies are available from the Department of Energy and Climate Change.

(50) Available at <http://www.cites.org/eng/disc/text.php#texttop>.

- (ii) whether an emission saving from soil carbon accumulation via improved agricultural management was included in the calculation of the greenhouse gas emissions from the use of the bioliquid.

(4) Subject to paragraph (5), it is for the operator of the generating station to demonstrate to the Authority's satisfaction that the sustainability audit report was prepared to an adequate standard.

(5) A sustainability audit report shall be deemed to have been prepared to an adequate standard if it has been prepared in accordance with the requirements in respect of limited assurance engagements prescribed in ISAE 3000, or an equivalent standard.

(6) Where, in relation to bioliquid used in a generating station to which this article applies, the operator of the station fails to provide the Authority with a sustainability audit report meeting the requirements specified in paragraph (3) by the relevant date, the Authority must, in relation to any ROCs to which the operator would otherwise be entitled, postpone the issue of those ROCs (up to the specified number) until such time as the sustainability audit report is provided.

(7) For the purposes of paragraph (6), the specified number is the number of ROCs which the Authority has or estimates that it has or, but for this article, would have issued in respect of the electricity generated by the bioliquid in relation to which a sustainability audit report meeting the requirements specified in paragraph (3) should have been provided.

(8) In this article—

“actual value method” has the same meaning as in Schedule 1;

“emission saving from soil carbon accumulation via improved agricultural management” has the same meaning as in Part C of Annex 5 to the Renewables Directive;

“environmental quality assurance scheme” means a voluntary scheme which establishes environmental or social standards in relation to the production of a bioliquid or matter from which the bioliquid is derived;

“mixed value method” has the same meaning as in Schedule 1;

“restored degraded land bonus” means the bonus referred to in paragraphs 7 and 8 of Part C of Annex 5 to the Renewables Directive;

“sustainability information”, in relation to a consignment of bioliquid, means the information submitted to the Authority by the operator of a generating station for the purpose of demonstrating that the bioliquid meets the greenhouse gas criteria and the land criteria.

### **Solid and gaseous biomass sustainability audit report**

**84.**—(1) This article applies to a generating station which—

- (a) has a total installed capacity of at least 1 megawatt, and
- (b) generates electricity (wholly or partly) from biomass.

(2) In relation to each consignment of biomass used in a generating station to which this article applies, and in respect of which the operator of the station has submitted sustainability information, the operator of the station must, by the 30th June immediately following the obligation period during which the biomass was used (“the relevant date”), provide the Authority with a sustainability audit report meeting the requirements specified in paragraph (3).

(3) The requirements specified in this paragraph are that the sustainability audit report must—

- (a) be prepared by a person who is not—
  - (i) the owner or operator of the generating station, or
  - (ii) a connected person, in relation to the owner or operator of the generating station;

- (b) consider whether the systems used to produce the sustainability information are likely to produce information which is reasonably accurate and reliable;
- (c) consider whether there are controls in place to help protect the sustainability information against material misstatements due to fraud or error;
- (d) consider the frequency and methodology of any sampling carried out for the purpose of obtaining or checking the data on which the operator relied in preparing the sustainability information;
- (e) consider the robustness of the data on which the operator relied in preparing the sustainability information;
- (f) state whether anything has come to the attention of the person preparing the report to indicate that the sustainability information is not accurate; and
- (g) be prepared in accordance with the requirements in respect of limited assurance engagements prescribed in ISAE 3000, or an equivalent standard.

(4) Where, in relation to biomass used in a generating station to which this article applies, the operator of the station fails to provide the Authority with a sustainability audit report meeting the requirements specified in paragraph (3) by the relevant date, the Authority must, in relation to any ROCs to which the operator would otherwise be entitled, postpone the issue of those ROCs (up to the specified number) until such time as the sustainability audit report is provided.

(5) For the purposes of paragraph (4), the specified number is the number of ROCs which the Authority has or estimates that it has or, but for this article, would have issued in respect of the electricity generated by the biomass in relation to which a sustainability audit report meeting the requirements specified in paragraph (3) should have been provided.

(6) In this article, “sustainability information” means—

- (a) in relation to a consignment of biomass which is waste, the information specified in article 82(3)(c) that is provided to the Authority by the operator of the generating station in respect of the biomass;
- (b) in relation to a consignment of biomass which is not waste, any information submitted to the Authority by the operator of a generating station for the purpose of demonstrating that the biomass meets the greenhouse gas criteria and the land criteria.

(7) References in this article to biomass do not include animal excreta, bioliquid, landfill gas, municipal waste or sewage gas.

## PART 10

### Functions of the Authority

#### **Determination of matters by the Authority**

**85.** Where this Order provides for any matter to be determined by the Authority—

- (a) the Authority may require the operator of the generating station to demonstrate to the Authority’s satisfaction how that matter is to be determined, and
- (b) the Authority is entitled to have regard to any material (whether or not produced to it by the operator of the generating station) if, in its opinion, that material indicates how the matter is to be determined.

## Functions of the Authority

86.—(1) In addition to the functions assigned to it elsewhere in this Order, the Authority must carry out the following specific functions—

- (a) keeping, maintaining and making available to the public a list of generating stations granted preliminary accreditation in accordance with article 88 (or article 58 of the 2009 Order) and accreditation in accordance with article 89 (or article 58ZZA of the 2009 Order), together with any applicable conditions attached to the preliminary accreditation or accreditation;
- (b) keeping and maintaining a list of ROCs which have been revoked and making such list available to the public;
- (c) calculating and publishing before the start of each obligation period the sum which corresponds to a ROC for that period by virtue of article 67(4);
- (d) calculating and publishing before the start of each obligation period the amount which is the mutualisation cap for that period by virtue of article 73(5);
- (e) publishing from time to time during an obligation period the total ROC claim for that period;
- (f) by the 1st April each year publishing a report in relation to the obligation period ending with the 31st March in the previous calendar year (“the relevant period”), such report to include details (or, in the case of paragraph (ix), a summary) of—
  - (i) the compliance of each designated electricity supplier with its renewables obligation, for the relevant period, including the extent to which that obligation was met by the production of UK ROCs under article 7(2), payments made under article 67 or the production of Northern Ireland certificates under article 14(1), or was treated as met by payments made under article 68;
  - (ii) the sums received by each UK supplier under article 71 in relation to the relevant period;
  - (iii) the number of ROCs issued by the Authority, the number of ROCs accepted by it under article 7(2), and the number of ROCs issued by it but not yet deleted from the Register in relation to the relevant period;
  - (iv) the number of ROCs issued by the Authority in relation to the relevant period categorized by reference to the way in which the electricity in respect of which the ROCs were issued was generated;
  - (v) any notices published by the Authority under article 74(2) in relation to the relevant period;
  - (vi) any payments made to the Authority in accordance with article 74(5), during or in relation to the relevant period;
  - (vii) the sums received by each compliant UK supplier under article 77, during or in relation to the relevant period;
  - (viii) any recalculations carried out by the Authority in accordance with article 75(5), during or in relation to the relevant period;
  - (ix) the outcome of any enquiries or investigations conducted by the Authority pursuant to sub-paragraph (g) in relation to the relevant period; and
  - (x) any other matters which the Authority considers relevant in relation to the relevant period;
- (g) monitoring compliance with this Order by designated electricity suppliers and operators of generating stations (including compliance by operators of generating stations with any

conditions attached to their accreditation), where such monitoring may include conducting enquiries or investigations into—

- (i) the amount of electricity generated from renewable sources by accredited generating stations;
  - (ii) the amount of such electricity supplied to customers in Great Britain;
  - (iii) the transfer and holding of ROCs (including the transfer and holding of ROCs issued to agents by virtue of article 19);
  - (iv) the effect of such matters on the making and allocation of payments under articles 67, 68, 71, 74, 76 and 77; and
  - (v) the effect of the renewables obligation on the activities and operations of designated electricity suppliers and operators of generating stations;
- (h) publishing at its discretion reports of enquiries or investigations conducted by the Authority pursuant to sub-paragraph (g); and
- (i) the provision of such information to the Northern Ireland authority as the Authority considers may be relevant to the exercise of the Northern Ireland authority's functions under any NIRO Order.

(2) The Authority must, as soon as reasonably practicable after each obligation period, forward to the Secretary of State a summary of the information submitted to it during that period by the operators of generating stations for the purpose of demonstrating that bioliquid meets the greenhouse gas criteria and the land criteria.

(3) In this article—

“compliant UK supplier” and “UK supplier” have the same meanings as in Part 8; and  
“total ROC claim” means the total number of ROCs which have been claimed in respect of an obligation period, less—

- (a) the number of ROCs which have been issued in respect of that obligation period, and
- (b) the number of ROCs which the Authority has, in respect of that obligation period, decided not to issue or refused to issue under article 24.

### **Exchange of information with the Northern Ireland Authority**

**87.**—(1) The Authority must, as soon as reasonably practicable after the specified day following an obligation period, notify the Northern Ireland authority of—

- (a) the details of each Northern Ireland certificate produced to the Authority by a designated electricity supplier in discharge of that supplier's renewables obligation for that period and the name of the designated electricity supplier in question; and
- (b) the total number of Northern Ireland certificates produced to the Authority in respect of that obligation period.

(2) The Authority must, as soon as reasonably practicable after receiving a notification from the Northern Ireland authority as to the ROC identifiers of ROCs produced to the Northern Ireland authority by Northern Ireland suppliers under any NIRO Order, inform the Northern Ireland authority of—

- (a) the ROC identifier of any ROC so notified which the Authority has revoked under article 24 and whether it has issued a replacement ROC in respect of any such ROC (unless that replacement ROC has itself been revoked), and
- (b) the ROC identifier of any ROC so notified that has been produced to the Authority by a designated electricity supplier under article 7(2) and the date on which it was produced.



(3) The Authority must, as soon as reasonably practicable after the specified day following an obligation period, notify the Northern Ireland authority of the number of UK ROCs produced to the Authority in respect of that period.

(4) In this article, “ROC identifier” has the meaning given by paragraph 3 of Schedule 4.

### **Preliminary accreditation of generating stations**

**88.**—(1) Subject to paragraph (2), the Authority may, upon the application of a person who proposes to construct or operate a generating station, grant the station preliminary accreditation if—

- (a) the station is not yet commissioned, and
- (b) it is a station in respect of which—
  - (i) consent under section 36 of the Act<sup>(51)</sup> or Article 39 of the Electricity (Northern Ireland) Order 1992<sup>(52)</sup> has been obtained,
  - (ii) planning permission under the Town and Country Planning Act 1990<sup>(53)</sup> has been granted and any conditions as to the time period in which the development to which it relates must be begun have not been breached, or
  - (iii) development consent under the Planning Act 2008<sup>(54)</sup> has been granted.

(2) The Authority must not grant preliminary accreditation to a generating station—

- (a) if, in the Authority’s opinion, the station is unlikely to generate electricity in respect of which ROCs may be issued,
- (b) if a CFD has been entered into at any time in relation to the generation of electricity by the station, or
- (c) subject to paragraph (3), if an investment contract has been entered into at any time in relation to the generation of electricity by the station.

(3) Paragraph (2)(c) does not apply if the application for preliminary accreditation is accompanied by a declaration made in writing by the person who proposes to construct or operate the generating station that the investment contract has been terminated (or has otherwise ceased to have effect) by reason of a permitted termination event.

(4) In paragraph (1) “development” has the meaning given in section 55(1) of the Town and Country Planning Act 1990.

### **Accreditation of generating stations**

**89.**—(1) This article applies to the granting of accreditation of generating stations by the Authority, and paragraphs (2) and (3) are subject to paragraph (4).

(2) Where a generating station has been commissioned, the Authority may, upon the application of its operator (or, where ROCs relating to electricity generated by that station are to be issued to an agent by virtue of article 19, that agent), grant the station accreditation.

(3) Where a generating station has been granted preliminary accreditation (and such preliminary accreditation has not been withdrawn) and an application for its accreditation is made under paragraph (2), the Authority must not grant that application if it is satisfied that—

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(51) 1989 c.29. Section 36 has been amended by Schedule 2 paragraph 32(2) and (3) of the Planning Act 2008 (c.29), section 93(1) and (3) of the Energy Act 2004 (c.20), section 12(7)(a) of the Marine and Coastal Access Act 2009 (c.23), and Schedule 1(1) paragraph 1(2)(a) and (b) of the Water Environment and Water Services (Scotland) Act 2003 (Consequential Provisions and Modifications) Order 2006/1054.

(52) S.I. 1992/231 (N.I.1). Article 39 has been amended by regulation 9(1) and (2) of the Electricity Order 1992 (Amendment) Regulations (Northern Ireland) 2005/335 and regulation 3 of the Electricity (Published Criteria for Generating Station) Regulations (Northern Ireland) 2011/247.

(53) 1990 c.8.

(54) 2008 c.29.

- (a) there has been a material change in circumstances since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused,
- (b) the information on which the decision to grant the preliminary accreditation was based was incorrect in a material particular such that, had the Authority known the true position when the application for preliminary accreditation was made, it would have refused it, or
- (c) there has been a change in applicable legislation since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused,

but otherwise the Authority must grant the application.

(4) The Authority must not grant accreditation to a generating station under this article—

- (a) if, in the Authority's opinion, the station is unlikely to generate electricity in respect of which ROCs may be issued,
- (b) subject to paragraph (5), if the generating station is a potential feed-in tariff generating station,
- (c) subject to paragraph (6), if the application for accreditation is not accompanied by the documents specified in paragraph (9),
- (d) subject to paragraph (7), if an application for a CFD has been made at any time in relation to the generation of electricity by the station, or
- (e) subject to paragraph (8), if an investment contract has been entered into at any time in relation to the generation of electricity by the station.

(5) Paragraph (4)(b) does not apply if the application for accreditation is accompanied by a notice in writing stating whether support for electricity generated by the station should be given in the form of ROCs or in the form of financial incentives under a feed-in tariff scheme.

(6) Paragraph (4)(c) does not apply if the application for accreditation is in respect of a generating station which—

- (a) is a potential feed-in tariff generating station, or
- (b) is a microgenerator.

(7) Paragraph (4)(d) does not apply if the application for accreditation is accompanied by the document specified in paragraph (9)(a)(ii).

(8) Paragraph (4)(e) does not apply if the application for accreditation is accompanied by the document specified in paragraph (9)(b)(ii).

(9) The documents specified in this paragraph are—

- (a) either—
  - (i) a declaration made in writing by the operator of the generating station that an application for a CFD has not been made at any time in relation to the generation of electricity by the station, or
  - (ii) a declaration made in writing by the operator of the generating station that every application made for a CFD in relation to the generation of electricity by the station has been rejected by the delivery body or by the Secretary of State; and
- (b) either—
  - (i) a declaration made in writing by the operator of the generating station that an investment contract has never been entered into in relation to the generation of electricity by the station, or

- (ii) a declaration made in writing by the operator of the generating station that any investment contract entered into in relation to the generation of electricity by the station has been terminated (or has otherwise ceased to have effect) by reason of a permitted termination event.

(10) In this article “potential feed-in tariff generating station” means a generating station in relation to which support may be given in the form of financial incentives under the feed-in tariff scheme to encourage the generation of electricity by the station.

### **Preliminary accreditation and accreditation: common provisions**

**90.**—(1) This article applies to the granting and withdrawing of preliminary accreditation and accreditation of generating stations by the Authority.

(2) The Authority may, in granting preliminary accreditation or accreditation, attach such conditions as appear to it to be appropriate.

(3) Where any of the circumstances mentioned in paragraph (4) apply in relation to a preliminary accreditation or an accreditation which the Authority has granted (whether or not under this Order), and having regard to those circumstances the Authority considers it appropriate to do so, the Authority may—

- (a) withdraw the preliminary accreditation or accreditation in question;
- (b) amend the conditions attached to the preliminary accreditation or accreditation;
- (c) attach conditions to the preliminary accreditation or accreditation.

(4) The circumstances referred to in paragraph (3) are as follows—

- (a) in the Authority’s view there has been a material change in circumstances since the preliminary accreditation or accreditation was granted,
- (b) any condition attached to the preliminary accreditation or accreditation has not been complied with,
- (c) the Authority has reason to believe that the information on which the decision to grant the preliminary accreditation or accreditation was based was incorrect in a material particular,
- (d) there has been a change in applicable legislation since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would not have been granted, or
- (e) there has been a change in applicable legislation since the accreditation was granted such that, in the Authority’s opinion, the station to which the accreditation relates is no longer likely to generate electricity in respect of which ROCs may be issued.

(5) The Authority must notify the applicant in writing of—

- (a) its decision on an application for preliminary accreditation or accreditation of a generating station,
- (b) any conditions attached to the preliminary accreditation or accreditation, and
- (c) any withdrawal of preliminary accreditation or accreditation.

(6) In providing written notification under paragraph (5), the Authority must specify where applicable—

- (a) the date on which the grant or withdrawal of preliminary accreditation or accreditation is to take effect,
- (b) the date on which any conditions attached to the preliminary accreditation or accreditation are to take effect, and
- (c) the original capacity of the generating station.

## Registration of offshore wind turbines

91.—(1) This article applies to a generating station which—

- (a) is accredited, and
- (b) generates electricity using offshore wind turbines.

(2) The operator of a generating station to which this article applies may apply to the Authority in writing for one or more wind turbines forming part, or intended to form part, of the generating station to be registered under this article.

(3) For each wind turbine to which the application relates, the application must—

- (a) identify the location, or the proposed location, of the wind turbine; and
- (b) specify the total installed capacity of the wind turbine.

(4) The application must be received by the Authority on or before 31st March 2017.

(5) An application to register one or more wind turbines under this article must be accompanied by—

- (a) one of the documents referred to in article 92(5)(a), and
- (b) one of the documents referred to in article 92(5)(b).

(6) Following receipt of an application meeting the requirements of paragraphs (3), (4) and (5), the Authority must register the wind turbines to which the application relates if the Authority is satisfied that—

- (a) where the station was accredited before 1st April 2011, the wind turbines are registrable additional turbines;
- (b) where the wind turbines are registrable additional turbines—
  - (i) the date of receipt of the application was no later than 5 years after the date on which registrable additional turbines were first added to the station; and
  - (ii) the Authority has not registered other registrable additional turbines in relation to the station on more than 4 separate occasions;
- (c) where the wind turbines form part of the original capacity of the station—
  - (i) the date of receipt of the application was no later than 5 years after the date on which the station was accredited; and
  - (ii) the Authority has not registered other wind turbines forming part of the original capacity of the station on more than 4 separate occasions; and
- (d) where the wind turbines form part of the original capacity of the station and no other wind turbines have been registered under this article in relation to the station, the total installed capacity of the wind turbines to which the application relates is at least 20% of the accredited capacity of the station.

(7) The Authority must notify the applicant in writing of its decision on an application to register a wind turbine under this article.

(8) In providing written notification under paragraph (6), the Authority must specify the date on which the registration of the wind turbine is to take effect.

(9) For the purposes of this article, the date on which a registrable additional turbine is added to a generating station is the date on which the registrable additional turbine is first used to generate electricity.

(10) In this article, “registrable additional turbine” means an offshore wind turbine which—

- (a) does not form part of the original capacity of a generating station, and
- (b) was not used to generate electricity before 1st April 2011.

## **Registration of additional capacity**

- 92.**—(1) This article applies to generating capacity which—
- (a) forms part of a generating station which is accredited,
  - (b) first forms part of the station from a date no earlier than 1st April 2014, and
  - (c) does not form part of the original capacity of the station.
- (2) Subject to paragraph (3), the Authority may, upon the application of an operator of a generating station using generating capacity to which this article applies, register that generating capacity under this article.
- (3) The Authority must not register generating capacity under this article unless the Authority is satisfied that the application complies with the requirements of paragraphs (4) and (5).
- (4) An application to register generating capacity under this article must—
- (a) describe the generating capacity in sufficient detail to enable the Authority to exercise its functions under this Order in relation to the issue of ROCs in respect of electricity generated using that generating capacity, and
  - (b) state the total installed capacity of the generating capacity.
- (5) An application to register generating capacity under this article must be accompanied by the following documents—
- (a) either—
    - (i) a declaration made in writing by the operator of the generating station that an application for a CFD has not been made at any time in relation to the generation of electricity by the station, or
    - (ii) a declaration made in writing by the operator of the generating station that every application made for a CFD in relation to the generation of electricity by the station has been rejected by the delivery body or by the Secretary of State; and
  - (b) either—
    - (i) a declaration made in writing by the operator of the generating station that an investment contract has never been entered into in relation to the generation of electricity by the station, or
    - (ii) a declaration made in writing by the operator of the generating station that any investment contract entered into in relation to the generation of electricity by the station has been terminated (or has otherwise ceased to have effect) by reason of a permitted termination event.
- (6) The Authority must notify the operator of the generating station in writing of its decision on an application to register generating capacity under this article.

## **ROC Register**

- 93.**—(1) The Authority must establish and maintain a register of ROCs (“the Register”) in accordance with Schedule 4.
- (2) A ROC is issued for the purpose of this Order at the point at which its particulars (within the meaning of Schedule 4) are entered in the Register by the Authority.
- (3) Without prejudice to the foregoing provisions of this article and Schedule 4, the Authority must ensure that the Register contains, by way of entries made in it—
- (a) an accurate record of the particulars of each ROC which is issued by the Authority (including the person who is for the time being its registered holder) and which remains eligible to be produced to the Authority; and

- (b) a list of the names of all persons who either are the registered holder of a ROC or, although not at that time the registered holder of a ROC, have notified the Authority that they wish an entry to be made and maintained in respect of them as prospective registered holders of ROCs.
- (4) Only the registered holder of a ROC may produce that ROC to the Authority under article 7.

## PART 11

### Modifications and transitional provisions

#### **Modification of this Order in relation to microgenerators in certain circumstances**

**94.**—(1) The operator of a microgenerator or, where ROCs relating to microgenerators are to be issued to an agent by virtue of article 19, that agent (and not the operators of the generating stations in question) may—

- (a) where ROCs have not yet been issued in respect of any electricity generated during the course of an obligation period by the station or stations in question, during the course of that obligation period, or
- (b) in any other case, not less than one month before the beginning of an obligation period (“the relevant obligation period”),

give notice in writing to the Authority that entitlement to ROCs in respect of electricity generated by the station or stations in question is to be determined on the basis set out in the remainder of this article.

(2) Paragraph (3) applies where the operator or, as the case may be, agent (“the notice-giver”) has given notice—

- (a) as specified in paragraph (1)(a), for the remainder of the obligation period during which the notice was given and subsequent obligation periods; or
- (b) as specified in paragraph (1)(b), for the relevant obligation period and subsequent obligation periods.

(3) Where this paragraph applies, the reference to “month” in each place where it occurs in the definition of “permitted ancillary purposes” in article 2(1), in articles 2(2), 24, 26 to 32, 43, 45, 56, 60 and 80 and in Schedule 4 is to be taken to be a reference to “obligation period”, subject to the following exceptions—

- (a) in articles 28(1)(b) and (2) and 80(2) and (3) the reference to “the second month” is to remain unchanged;
- (b) in paragraph 3(b)(i) of Schedule 4, the words “the month and year” is to be replaced by “the obligation period”.

(4) A notice-giver may, by notice in writing to the Authority, withdraw the notice given under paragraph (2)—

- (a) if the notice was given under paragraph (2)(a), not less than one month before the beginning of any obligation period following the obligation period during which the notice was given; or
- (b) if the notice was given under paragraph (2)(b), not less than one month before the beginning of any obligation period following the relevant obligation period.

(5) Where a notice-giver withdraws a notice given under paragraph (2), that notice ceases to have effect from the beginning of the obligation period in relation to which the notice under paragraph (5) was given.

## Revocation and savings

- 95.**—(1) Subject to paragraphs (2) to (5)—
- (a) the 2009 Order is revoked; and
  - (b) the following instruments amending the 2009 Order are revoked—
    - (i) the Renewables Obligation (Amendment) Order 2010(**55**),
    - (ii) the Renewables Obligation (Amendment) Order 2010(**56**),
    - (iii) the Renewables Obligation (Amendment) Order 2011(**57**), except for article 2,
    - (iv) the Renewables Obligation (Amendment) Order 2013(**58**), and
    - (v) the Renewables Obligation (Amendment) Order 2014(**59**).
- (2) Subject to paragraphs (3), the 2009 Order continues to have effect in relation to—
- (a) the issue and revocation of ROCs in respect of electricity generated before this Order came into force, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to such issue or revocation;
  - (b) any obligations or requirements imposed on any person in respect of the obligation period ending on 31st March 2016, and anything which falls to be done or determined in relation to any such obligation or requirement;
  - (c) any obligations or requirements imposed on any person in respect of electricity generated before this Order came into force, and anything which falls to be done or determined in relation to any such obligation or requirement;
  - (d) any obligations and functions of the Authority in respect of the obligation period ending on 31st March 2016, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to that obligation period.
- (3) Where the 2009 Order continues to have effect by virtue of paragraph (2), it is to apply as if in article 2 of the 2009 Order, for the definition of “ROC” there was substituted—
- ““ROC” means a renewables obligation certificate issued by the Authority under a renewables obligation order made by the Secretary of State;”.
- (4) Without prejudice to the generality of paragraph (2)—
- (a) Parts 2 and 8 and articles 53(5) and (6), 56(1) and (3), 57(1)(e) and (f) and (2) and 87(1) of, and Schedules 1 and 3 to, the 2009 Order continue to apply in relation to the obligation period ending on 31st March 2016;
  - (b) article 53(1) and (2) of the 2009 Order continues to apply for the purpose of enabling the Authority to request information in respect of the discharge of the renewables obligation;
  - (c) articles 54 and 54B of the 2009 Order continue to apply in relation to consignments of biomass used before this Order came into force;
  - (d) article 54A of the 2009 Order continues to apply in relation to consignments of bioliquid used before this Order came into force;
  - (e) article 57(1)(g) of the 2009 Order continues to apply in relation to compliance by designated electricity suppliers in respect of obligation periods ending on or before 31st March 2016.
- (5) In this article—

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(55) [S.I. 2010/829](#).

(56) [S.I. 2010/1107](#).

(57) [S.I. 2011/984](#).

(58) [S.I. 2013/768](#).

(59) [S.I. 2014/893](#).

“biomass”, “obligation period” and “renewables obligation” have the same meanings as in the 2009 Order.

### **Transitional provisions**

**96.**—(1) In relation to the obligation period starting with 1st April 2016—

- (a) in article 7(2) the renewables obligation is to produce the number of UK ROCs equal to the number of renewables obligations certificates determined in accordance with article 12 of the 2009 Order after 1st October 2014, (accordingly) articles 7(3) to 13 do not apply; and
- (b) article 14(2) applies as if the reference to “the immediately preceding obligation period” were a reference to the period starting with 1st April 2015 and ending with 31st March 2016”.

(2) For the purposes of article 19(3), notifications given to the Authority include notifications given before this Order came into force.

(3) In relation to a notice given under article 19(3) on or after 1st April 2015 and before 1st April 2016, articles 19(5) and (6) apply as if the obligation period referred to in those paragraphs was the period starting with 1st April 2015 and ending with 31st March 2016.

(4) In articles 20, 21, 22, 23, 28, 42, 82 to 84 and 86(2) and 94, references to “obligation period” include the obligation period within the meaning of the 2009 Order which ends on 31st March 2016 (as if that Order had not been revoked).

(5) For the purposes of articles 20, 21, 22 or 23, in relation to the period starting with 1st April 2015 and ending with 31st March 2016, confirmations given to the Authority include a confirmation which is given on or after 1st April 2015 and before this Order came into force.

(6) For the purposes of article 24, confirmations provided to the Authority under Part 4 include confirmations provided to the Authority under Part 7 of the 2009 Order.

(7) For the purposes of article 35, a declaration is to be treated as having been made in accordance with article 35(7) regardless of whether it was made before this Order came into force.

(8) For the purposes of articles 44, 45 and 91, a wind turbine registered under article 58A of the 2009 Order is to be treated as having been registered under article 91.

(9) For the purposes of article 45, generating capacity registered under article 58B of the 2009 Order is to be treated as having been registered under article 92.

(10) For the purposes of articles 45 and 50, a CFD transfer notice includes a CFD transfer notice within the meaning of article 21B(4) of the 2009 Order (as if that Order had not been revoked) which was given to the Authority before this Order came into force.

(11) For the purpose of articles 51(2)(b) and 81, notifications (and notices under article 81(3)) given to the Authority include notifications or notices given before this Order came into force.

(12) Articles 82 to 84 do not apply to consignments of biomass or bioliquid used before this Order came into force.

(13) In relation to biomass used before 1st April 2016, paragraph 2 of Schedule 2 has effect as if for sub-paragraph (b)(iii) there were substituted—

“(iii) the average greenhouse gas emissions from the relevant biomass used by the station to generate electricity during the period from the day this Order comes into force to 31st March 2016 are equal to, or less than, the relevant target.”.

(14) In paragraph (1) “renewables obligation certificate” has the same meaning as in the 2009 Order.



### Consequential amendments to the Renewables Obligation Closure Order 2014

97.—(1) The Renewables Obligation Closure Order 2014<sup>(60)</sup> is amended as follows.

(2) In article 2(1)—

(a) in the definitions of “accredited”, ““commission” and “commissioned”” and “RO capacity”, for “Renewables Obligation Order 2009” substitute “Renewables Obligation Order 2015”;

(b) for ““relevant fossil fuel generating station” has the same meaning as in Schedule 2 to the Renewables Obligation Order 2009.” substitute ““relevant fossil fuel station” has the same meaning as in Schedule 5 to the Renewables Obligation Order 2015;”;

(c) at the appropriate places insert—

““landfill” has the meaning given in Article 2(g) of Council Directive 1999/31/EC<sup>(61)</sup>”;

““regular biomass” means biomass and bioliquids;” and

““waste” has the meaning given in section 75(2) of the Environmental Protection Act 1990<sup>(62)</sup> but does not include gas derived from landfill sites or gas produced from the treatment of sewage.”.

(3) In article 2(2)—

(a) for “2009” substitute “2015”;

(b) omit ““regular biomass;” and ““waste””; and

(c) after “total installed capacity” omit “;”.

(4) In article 2B(6) for “2009” substitute “2015”.

(5) In articles 8(1)(a)(i) and 12(1)(a)(ii) for “fossil fuel generating station” substitute “fossil fuel station”.

(6) In article 11(b), for “Schedule 2 to the Renewables Obligation Order 2009” substitute “Schedule 5 to the Renewables Obligation Order 2015”.

(7) In article 13(10) in the definition of “offshore waters” for “2009” substitute “2015”.

Date

*Name*  
Minister of State  
Department of Energy and Climate Change

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<sup>(60)</sup> S.I. 2014/2388, amended by S.I. 2015/920.

<sup>(61)</sup> OJ No L 182, 16.7.1999, p1.

<sup>(62)</sup> 1990 c.43. Section 75(2) has been amended by paragraph 3(8) of Schedule 4(1) to the [Waste \(England and Wales\) Regulations 2011/988](#).

## SCHEDULE 1

Article 2(1)

## GREENHOUSE GAS CRITERIA FOR BIOLIQUID

**Interpretation****1. In this Schedule—**

“actual value method” means the calculation method for greenhouse gas emissions from the production and use of bioliquids provided for in paragraphs 1, 2 and 5 to 18 of Part C of Annex 5 to the Renewables Directive;

“default percentage” means—

- (a) in relation to bioliquid described in the first column of Part A or Part B of Annex 5 to the Renewables Directive—
  - (i) the percentage (if any) which corresponds to that description in the third column of Part A or Part B of that Annex, or
  - (ii) where a percentage corresponding to that description is not set out in the third column of Part A or Part B of that Annex, the percentage which complies with the provision corresponding to that description in the second column of Part A or Part B of that Annex,
- (b) in all other cases 0%;

“disaggregated default value” means, in relation to a bioliquid described in the first column of a table in Part D or Part E of Annex 5 to the Renewables Directive, the value which corresponds to that description in the third column of that table in Part D or Part E of that Annex;

“disaggregated default values for cultivation” means the figures in the third column of the table entitled “Disaggregated default values for cultivation: ‘e<sub>ec</sub>’ as defined in part C of this Annex” in Part D of Annex 5 to the Renewables Directive;

“greenhouse gas emissions from the use of fossil fuel” means the value given in paragraph 19 of Part C of Annex 5 to the Renewables Directive as the fossil fuel comparator for bioliquids used for electricity production;

“mixed value method” means the calculation method for greenhouse gas emissions from the production and use of bioliquids provided for in paragraphs 1, 2 and 5 to 18 of Part C of Annex 5 to the Renewables Directive, but using one or more disaggregated default values for the bioliquid when carrying out the calculation set out in paragraph 1 of Part C of that Annex; and

“relevant percentage” means—

- (a) in relation to bioliquid used to generate electricity before 1st January 2017, 35%;
- (b) in relation to bioliquid used to generate electricity during 2017, 50%;
- (c) in relation to bioliquid produced by an installation that started producing bioliquid before 1st January 2017 and used to generate electricity on or after 1st January 2018, 50%;
- (d) in all other cases, 60%.

**The greenhouse gas criteria**

**2.** Bioliquid meets the greenhouse gas criteria if the greenhouse gas emissions from its use are lower, by at least the relevant percentage, than the greenhouse gas emissions from the use of fossil fuel.

### Calculating the percentage difference

3. For the purposes of paragraph 2, and subject to paragraphs 4 to 6, the percentage difference between the greenhouse gas emissions from the use of the bioliquid and the greenhouse gas emissions from the use of fossil fuel—

- (a) is to be calculated by the operator of the generating station using the actual value method, or the mixed value method, or
- (b) when not so calculated, is equal to the default percentage.

4. The mixed value method must not be used for the purposes of paragraph 2 unless the bioliquid is described in the first column of a table in Part D or Part E of Annex 5 to the Renewables Directive.

5. Where the mixed value method is used for the purposes of paragraph 2, the disaggregated default values for cultivation must not be used in carrying out the calculation in paragraph 1 of Part C of Annex 5 to the Renewables Directive unless the biomaterial from which the bioliquid is made—

- (a) was cultivated outside the EU,
- (b) was cultivated in an area included in a list submitted under Article 19(2) of the Renewables Directive,
- (c) is waste, or
- (d) is residue (other than residue from agriculture, aquaculture or fisheries).

6. The default percentage must not be used in relation to bioliquid described in the first column of Part A or Part B of Annex 5 to the Renewables Directive unless—

- (a) in relation to the bioliquid, the result of the calculation in paragraph 7 of Part C of Annex 5 to the Renewables Directive is equal to, or less than, zero; and
- (b) in the case of a bioliquid described in the first column of Part A of Annex 5 to the Renewables Directive, the biomaterial from which the bioliquid is made—
  - (i) was cultivated outside the EU,
  - (ii) was cultivated in an area included in a list submitted under Article 19(2) of the Renewables Directive,
  - (iii) is waste, or
  - (iv) is residue (other than residue from agriculture, aquaculture or fisheries).

## SCHEDULE 2

Articles 2(1) and 28

### GREENHOUSE GAS CRITERIA FOR SOLID AND GASEOUS BIOMASS Articles 2(1), 28 and 82

## PART 1

### Greenhouse gas criteria

#### Interpretation

1. In this Schedule—

“actual value method” means the calculation method provided for in Part 2;

“default value method” means the calculation method provided for in Part 3;

“post-2013 dedicated biomass station” means a generating station which—

- (a) was not accredited on or before 31st March 2013, and
- (b) has, in any month after March 2013, generated electricity in the way described as “dedicated biomass” in Schedule 5;

“relevant biomass” means biomass other than animal excreta, bioliquid, landfill gas, sewage gas or waste;

“relevant ceiling” means—

- (a) in relation to biomass used by a post-2013 dedicated biomass station to generate electricity before 1st April 2020, 79.2 grams per megajoule of electricity,
- (b) in relation to biomass used to generate electricity on or after 1st April 2020 and before 1st April 2025, 75 grams per megajoule of electricity,
- (c) in relation to biomass used to generate electricity on or after 1st April 2025, 72.2 grams per megajoule of electricity;

“relevant target” means—

- (a) in relation to biomass used to generate electricity before 1st April 2020 by a station other than a post-2013 dedicated biomass station, 79.2 grams per megajoule of electricity,
- (b) in relation to biomass used by a post-2013 dedicated biomass station to generate electricity before 1st April 2020, 66.7 grams per megajoule of electricity,
- (c) in relation to biomass used to generate electricity on or after 1st April 2020 and before 1st April 2025, 55.6 grams per megajoule of electricity,
- (d) in relation to biomass used to generate electricity on or after 1st April 2025, 50 grams per megajoule of electricity.

### **The greenhouse gas criteria**

#### **2. Biomass meets the greenhouse gas criteria—**

- (a) if the greenhouse gas emissions from its use are equal to, or less than, the relevant target, or
- (b) if—
  - (i) the biomass is used by a post-2013 dedicated biomass station or the biomass is used to generate electricity after 1st April 2020,
  - (ii) the greenhouse gas emissions from its use are equal to, or less than, the relevant ceiling, and
  - (iii) the biomass is used in an obligation period in which the average greenhouse gas emissions from the relevant biomass used by the station to generate electricity during that obligation period are equal to, or less than, the relevant target.

### **Calculating the greenhouse gas emissions**

#### **3. For the purposes of paragraph 2, and subject to paragraph 4, the greenhouse gas emissions from the use of biomass to generate electricity—**

- (a) is to be calculated by the operator of the generating station using the actual value method or the default value method, or
- (b) is 91 grams per megajoule of electricity.

#### **4. The default value method must not be used to calculate the greenhouse gas emissions from the use of biomass unless—**

- (a) the biomass was used in a generating station with a total installed capacity of less than 1 megawatt,
  - (b) the biomass is described in the first column of the table in Part 4, and
  - (c) in relation to the biomass, the result of the calculation in paragraph 7 of Part C of Annex 5 to the Renewables Directive is equal to, or less than, zero.
5. For the purposes of paragraph 4(c), paragraph 7 of Part C of Annex 5 to the Renewables Directive is to be read as if—
- (a) for each reference to “biofuel” there was substituted “biomass”; and
  - (b) the words “or bioliquid” were omitted in each place in which those words occur.

## PART 2

### Actual value method

6. Where the greenhouse gas emissions from the use of biomass are calculated using the actual value method the greenhouse gas emissions from the use of the biomass are equal to—
- (a) in the case of biomass used by a CHP station,

$$\frac{E}{\eta_{el}} \left( \frac{\eta_{el}}{\eta_{el} + C_h \times \eta_h} \right)$$

- (b) in any other case,

$$\frac{E}{\eta_{el}}$$

7. In paragraph 6—

- (a)  $\eta_{el}$

is equal to

$$\frac{A}{F}$$

where—

- (i) A is the total amount of electricity generated by the generating station during the month, and
- (ii) F is the energy content of all of the fuels used in generating that electricity during the month;

- (b)  $\eta_h$

is equal to

$$\frac{H}{F}$$

where—

- (i) F has the same meaning as in sub-paragraph (a)(ii), and
- (ii) H is the energy content of all of the heat supplied to any premises by the generating station during the month;

(c)  $C_h$

is equal to—

- (i) where the maximum temperature in degrees kelvin of heat or steam which is (or may be) supplied by the generating station to any premises (“

$$T_{\max}$$

”) is less than 423 degrees kelvin, 0.3546,

- (ii) in any other case,

$$\frac{T_{\max} - 273}{T_{\max}}$$

; and

- (d) E is the greenhouse gas emissions from the production of the biomass and is to be calculated in accordance with Part C of Annex 5 of the Renewables Directive but as if the following modifications were made to Part C of that Annex—

- (i) in paragraph 1—

- (aa) for “and use of transport fuels, biofuels and bioliquids” there was substituted “of biomass”;

- (bb) for “E = total emissions from the use of the fuel” there was substituted “E = greenhouse gas emissions from the production of the biomass”, and

- (cc) for “

$$e_u$$

= emissions from the fuel in use” there was substituted “

$$e_u$$

= zero”;

- (ii) in paragraph 2, for the references to “fuels” and “fuel” there was substituted in each case “biomass”;

- (iii) paragraphs 3 and 4 were omitted;

- (iv) in paragraph 7—

- (aa) for each reference to “biofuel” there was substituted “biomass”, and

- (bb) the words “or bioliquid” were omitted in each place in which those words occur;

- (v) in paragraph 11, for “fuel” there was substituted “biomass”;

- (vi) paragraph 13 was omitted;

- (vii) in paragraph 14, for “fuel” there was substituted “biomass”;

- (viii) for paragraph 16 there was substituted—

“16. Emission saving from excess electricity from cogeneration shall be taken to be zero.

(ix) in paragraph 17, for each reference to “fuel” there was substituted “biomass”;

(x) in paragraph 18—

(aa) for “fuel” there was substituted “biomass”,

(bb) the words “In case of biofuels and bioliquids,” were omitted,

(cc) before “and residues from processing” there was inserted “residues from aquaculture, arboriculture, fisheries and forestry”, and

(dd) for “fuels” there was substituted “biomass”; and

(xi) for paragraph 19 there was substituted—

“19. Where material is added to the biomass to act as a binding agent or to reduce the emissions of dust, carbon dioxide, methane or nitrous oxide from the use of the biomass, the material so added shall be considered to have zero greenhouse gas emissions, provided that the material so added does not exceed 2% by weight of the biomass.”.

## PART 3

### Default value method

8. The greenhouse gas emissions from the use of biomass are calculated using the default value method where the greenhouse gas emissions from the use of the biomass are equal to—

(a) in the case of biomass used by a CHP station,

$$\frac{E}{\eta_{el}} \left( \frac{\eta_{el}}{\eta_{el} + C_h \times \eta_h} \right)$$

,

(b) in any other case,

$$\frac{E}{\eta_{el}}$$

.

9. In paragraph 8—

(a)  $\eta_{el}$

,

$\eta_h$

and

$C_h$

have the same meaning as in Part 2, and

(b) E, in relation to a type of biomass described in the first column of the table in Part 4, is the number of grams which corresponds to that description in the second column of that table.

## PART 4

### Default greenhouse gas emissions from the production of biomass

<i>Biomass</i>	<i>Default greenhouse gas emissions from the production of biomass (in grams)</i>
Wood chips made from residue from forestry carried out in European temperate continental forest	1
Wood chips made from residue from forestry carried out in tropical or subtropical forest	25
Wood chips from short rotation forestry carried out in European temperate continental forest	4
Wood chips from short rotation forestry carried out in tropical or subtropical forest	28
Wood briquettes or wood pellets—  (a) which are made from residue from forestry carried out in European temperate continental forest, and  (b) where the process to produce the wood briquettes or wood pellets was fuelled by wood	2
Wood briquettes or wood pellets—  (a) which are made from residue from forestry carried out in tropical or subtropical forest, and  (b) where the process to produce the wood briquettes or wood pellets was fuelled by natural gas	20
Wood briquettes or wood pellets—  (a) which are made from residue from forestry carried out in tropical or subtropical forest, and  (b) where the process to produce the wood briquettes or wood pellets was fuelled by wood	17
Wood briquettes or wood pellets—  (a) which are made from residue from forestry carried out in European temperate continental forest, and  (b) where the process to produce the wood briquettes or wood pellets was fuelled by natural gas	35
Wood briquettes or wood pellets—  (a) which are made from short rotation forestry carried out in European temperate continental forest, and	4



<i>Biomass</i>	<i>Default greenhouse gas emissions from the production of biomass (in grams)</i>
(b) where the process to produce the wood briquettes or wood pellets was fuelled by wood	
Wood briquettes or wood pellets—  (a) which are made from short rotation forestry carried out in European temperate continental forest, and  (b) where the process to produce the wood briquettes or wood pellets was fuelled by natural gas	22
Wood briquettes or wood pellets—  (a) which are made from short rotation forestry carried out in tropical or subtropical forest, and  (b) where the process to produce the wood briquettes or wood pellets was fuelled by wood	22
Wood briquettes or wood pellets—  (a) which are made from short rotation forestry carried out in tropical or subtropical forest, and  (b) where the process to produce the wood briquettes or wood pellets was fuelled by natural gas	40
Charcoal made from residue from forestry carried out in European temperate continental forest	41
Charcoal made from residue from forestry carried out in tropical or subtropical forest	50
Charcoal made from short rotation forestry carried out in European temperate continental forest	46
Charcoal made from short rotation forestry carried out in tropical or subtropical forest	57
Wheat straw	2
Bagasse briquettes where the process to produce the bagasse briquettes was fuelled by wood	17
Bagasse briquettes where the process to produce the bagasse briquettes was fuelled by natural gas	35
Bagasse bales	20
Palm kernel	27
Rice husk briquettes	28
Miscanthus bales	7

<i>Biomass</i>	<i>Default greenhouse gas emissions from the production of biomass (in grams)</i>
Biogas produced from wet manure	8
Biogas produced from dry manure	7
Biogas produced from wheat, where the whole plant was used to produce the biogas	21
Biogas produced from straw	21
Biogas produced from maize, where— (a) the whole maize plant was used in the process to produce the biogas, and (b) the maize was not grown by organic farming methods	34
Biogas produced from maize, where— (a) the whole maize plant was used in the process to produce the biogas, and (b) the maize was grown by organic farming methods	19

## SCHEDULE 3

Article 2(1)

## LAND CRITERIA

**Interpretation****1.** In this Schedule—

“continuously forested area” means land of an area of more than one hectare which includes—

- (a) trees more than five metres tall providing a tree canopy cover of more than 30%, or
- (b) trees collectively having the capacity to provide a tree canopy cover of more than 30% which—
  - (i) are more than five metres tall, or
  - (ii) have the capacity to grow to a height of more than five metres;

“designated for nature protection purposes” means designated pursuant to the law of the United Kingdom or of any part of the United Kingdom or pursuant to the law of any country or territory outside the United Kingdom, for the purpose of protecting the natural environment;

“environmental quality assurance scheme” means a voluntary scheme which establishes environmental or social standards in relation to the production of woody biomass;

“exempt purpose” has the meaning given in paragraph 7;

“greenhouse gas emissions from the use of fossil fuel” has the same meaning as in Schedule 1;

“highly biodiverse grassland” is to be construed in accordance with Article 17(3)(c) of the Renewables Directive;

“lightly forested area” means land of an area of more than one hectare which includes—

- (a) trees more than five metres tall providing a tree canopy cover of between 10% and 30%,  
or
- (b) trees collectively having the capacity to provide a tree canopy cover of between 10% and 30% which—
  - (i) are more than five metres tall, or
  - (ii) have the capacity to grow to a height of more than five metres;

“primary forest” means woodland of native species, where there is no clearly visible indication of human activity and ecological processes are not significantly disturbed;

“protected source” has the meaning given in paragraph 5;

“relevant percentage” has the same meaning as in Schedule 1;

“relevant target” has the same meaning as in Part 1 of Schedule 2;

“sustainable source” has the meaning given in paragraph 6;

“wetland area” means land that is covered with or saturated by water—

- (a) permanently, or
- (b) for a significant part of the year; and

“woody biomass” means biomass which—

- (a) is, or is derived from, wood (other than an energy crop), and
- (b) is not a bioliquid.

#### **Land criteria: bioliquids**

2. A consignment of bioliquid meets the land criteria if the biomaterial from which the fuel was made—

- (a) was not obtained from a protected source,
- (b) was residue (other than residue from agriculture, aquaculture, fisheries or forestry), or
- (c) was waste.

#### **Land criteria: woody biomass**

3. A consignment of woody biomass meets the land criteria if—

- (a) at least 70% of the woody biomass was obtained from a sustainable source,
- (b) the woody biomass is used by the RO capacity of a generating station to generate electricity in a month in which at least 70% of all of the woody biomass used by the RO capacity of that generating station to generate electricity was obtained from a sustainable source, or
- (c) the woody biomass was certified by an environmental quality assurance scheme which ensures that at least 70% of the woody biomass certified by the scheme was obtained from a sustainable source.

#### **Land criteria: other fuels**

4. A consignment of fuel (other than bioliquid or woody biomass) meets the land criteria if the biomaterial from which the fuel was made—

- (a) was not obtained from a protected source,
- (b) was residue (other than residue from agriculture, aquaculture, fisheries or forestry),

- (c) was an energy crop in respect of which financial assistance was paid under the Energy Crops Regulations 2000(63), or under an equivalent financial assistance scheme, or
- (d) was added to the fuel for an exempt purpose.

### Protected sources

5.—(1) For the purposes of paragraphs 2(a) and 4(a), biomaterial is obtained from a protected source if it is obtained from—

- (a) land which at any time during or after January 2008 was primary forest;
- (b) land which at any time during or after January 2008 was designated for nature protection purposes (unless the production of the biomaterial did not interfere with those nature protection purposes);
- (c) highly biodiverse grassland (unless the harvesting of the biomaterial was necessary to preserve the grassland status);
- (d) land which at any time during January 2008 was peatland (unless the cultivation and harvesting of the biomaterial did not involve the drainage of previously undrained soil);
- (e) a former continuously forested area;
- (f) except where sub-paragraph (2) or (4) applies to the biomaterial, a former lightly forested area; or
- (g) a former wetland area.

(2) This sub-paragraph applies to biomaterial obtained from a former lightly forested area where

- (a) the fuel made from the biomaterial was not a bioliquid; and
- (b) the greenhouse gas emissions from the use of the fuel to generate one megajoule of electricity did not exceed the relevant target.

(3) For the purposes of sub-paragraph (2)(b), the greenhouse gas emissions must be calculated using the method provided for in Part 2 of Schedule 2.

(4) This sub-paragraph applies to biomaterial obtained from a former lightly forested area where

- (a) the fuel made from the biomaterial was a bioliquid; and
- (b) the greenhouse gas emissions from the use of the bioliquid to generate electricity were lower, by at least the relevant percentage, than the greenhouse gas emissions from the use of fossil fuel.

(5) For the purposes of sub-paragraph (4)(b), the percentage difference between the greenhouse gas emissions from the use of the bioliquid and the greenhouse gas emissions from the use of fossil fuel must be calculated using the method provided for in paragraphs 1, 2 and 5 to 18 of Part C of Annex 5 to the Renewables Directive.

(6) For the purposes of this paragraph—

- (a) biomaterial was obtained from a former continuously forested area if the land—
  - (i) was a continuously forested area at any time during January 2008, and
  - (ii) was not a continuously forested area when the biomaterial was obtained from it;
- (b) biomaterial was obtained from a former lightly forested area if the land—

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(63) S.I. 2000/3042 as amended by article 6(2)(b) of S.I. 2011/1043 and section 73(2) of the Countryside and Rights of Way Act 2000 (c.37) and regulation 3 of S.I. 2001/3900. The Energy Crops Regulations 2000 have now been revoked by regulation 35(1) of and Schedule 5 to S.I. 2014/3263, as from 1st January 2015.

- (i) was a lightly forested area at any time during January 2008, and
- (ii) was not a lightly forested area or a continuously forested area when the biomaterial was obtained from it; and
- (c) biomaterial was obtained from a former wetland area if the land—
  - (i) was a wetland area at any time during January 2008, and
  - (ii) was not a wetland area when the biomaterial was obtained from it.

### **Sustainable source**

6.—(1) For the purposes of paragraph 3, woody biomass is obtained from a sustainable source if it—

- (a) was grown within an area of forest or other land which is managed—
    - (i) in a way that is consistent with—
      - (aa) the Forest Europe Sustainable Forest Management Criteria, or
      - (bb) a set of international principles for the sustainable management of land which meet the requirements specified in sub-paragraph (2); and—
    - (ii) to meet the requirements specified in sub-paragraph (4);
  - (b) was residue from arboriculture carried out in an area which was not a forest;
  - (c) was added to the fuel for an exempt purpose; or
  - (d) was removed for the purpose of creating, restoring or maintaining the ecosystem of an area which was not a forest.
- (2) The requirements specified in this sub-paragraph are that—
- (a) the principles have been adopted following a process (“the principle setting process”) which sought to—
    - (i) obtain a balanced representation of the views of interest groupings,
    - (ii) ensure that no single interest grouping could dominate the principle setting process, and
    - (iii) ensure that no decision on the contents of the principles could be made in the absence of agreement from a majority within each interest grouping involved in the principle setting process; and
  - (b) can be changed by a process (“the change process”) which seeks to ensure that:
    - (i) no single interest grouping can dominate the process, and
    - (ii) no decision on changes to the principles can be made in the absence of agreement from a majority within each interest grouping involved in the change process.
- (3) For the purposes of sub-paragraph (2), each of the following is an interest grouping in relation to the forest or other location where the wood was grown—
- (a) persons with interests which are predominantly economic in nature;
  - (b) persons with interests which are predominantly environmental in nature;
  - (c) persons with interests which are predominantly social in nature.
- (4) The requirements specified in this sub-paragraph are—
- (a) harm to ecosystems is minimised, in particular by—
    - (i) assessing the impacts of the extraction of wood from the area and adopting plans to minimise any negative impacts,

- (ii) protecting soil, water and biodiversity,
  - (iii) controlling the use of chemicals and ensuring that chemicals are used in an appropriate way,
  - (iv) wherever possible, using integrated pest management, and
  - (v) disposing of waste in a manner that minimises any negative impacts;
  - (b) the productivity of the area is maintained, in particular by—
    - (i) adopting plans to avoid significant negative impacts on productivity,
    - (ii) adopting procedures for the extraction of wood that minimise the impact on other uses of the area,
    - (iii) providing for all of the contractors and workers who are working in the area to be adequately trained in relation to the maintenance of productivity, and
    - (iv) maintaining an adequate inventory of the trees in the area (including data on the growth of the trees and on the extraction of wood) so as to ensure that wood is extracted from the area at a rate which does not exceed its long-term capacity to produce wood;
  - (c) compliance with the requirement in paragraph (b) is monitored, the results of that monitoring reviewed and planning updated accordingly;
  - (d) the health and vitality of ecosystems is maintained, in particular by—
    - (i) adopting plans to maintain or increase the health and vitality of ecosystems,
    - (ii) adopting plans to deal with natural processes or events such as fires, pests and diseases, and
    - (iii) taking adequate measures to protect the area from unauthorised activities such as illegal logging, mining and encroachment;
  - (e) biodiversity is maintained, in particular by—
    - (i) implementing safeguards to protect rare, threatened and endangered species,
    - (ii) conserving key ecosystems in their natural state, and
    - (iii) protecting features and species of outstanding or exceptional value;
  - (f) those responsible for the management of the area (and any contractors engaged by them) comply with the local and national laws relating to health and safety and the welfare of workers;
  - (g) those responsible for the management of the area have regard to—
    - (i) legal, customary and traditional rights of tenure and land use,
    - (ii) mechanisms for resolving grievances and disputes including those relating to tenure and land use rights, forest or land management practices and working conditions, and
    - (iii) safeguarding the health and safety and rights of workers;
  - (h) there is regular assessment of the extent to which those responsible for the management of the area have met the requirements set out in paragraphs (a) to (g).
- (5) In this paragraph—
- “the Forest Europe Sustainable Forest Management Criteria” means the criteria for sustainable forest management in Lisbon Resolution L2 of the third Ministerial Conference on the Protection of Forests in Europe held in June 1998<sup>(64)</sup>;

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<sup>(64)</sup> Lisbon Resolution L2 is entitled “Pan-European Criteria, Indicators and Operational Level Guidelines for Sustainable Forest Management”. Copies are available at [http://www.foresteurope.org/ministerial\\_conferences/lisbon1998](http://www.foresteurope.org/ministerial_conferences/lisbon1998). Copies can also be obtained from the Department of Energy and Climate Change.

“integrated pest management” has the meaning given in Article 3(6) of [Directive 2009/128/EC](#) establishing a framework for Community action to achieve the sustainable use of pesticides<sup>(65)</sup>; and

“local and national laws”, in relation to a site, means laws applying in the locality in which the site is situated, whether made at a local or national level.

### **Exempt purposes**

7. For the purposes of paragraph 4(d) and 6(1)(c), biomaterial is added to a fuel for an exempt purpose if—

- (a) it is added to the fuel—
  - (i) to act as a binding agent, or
  - (ii) to reduce the emissions of dust, carbon dioxide, methane or nitrous oxide from the use of the fuel, and
- (b) it does not exceed 2% by weight of the fuel.

## SCHEDULE 4

Articles 2(1), 87 and 93

### THE ROC REGISTER

1. The Register must be at one or more of the Authority’s premises, and may be in electronic form.
2. The Register must identify whether or not a ROC subsists and contain details of its particulars.
3. Particulars of a ROC comprise—
  - (a) the name of the person to whom the Authority issues the ROC or, where the Authority has amended the Register in dealing with a request for substitution in accordance with paragraph 7, the name of the substitute (“the registered holder”), and
  - (b) an identifier unique to the ROC (“the ROC identifier”) determined by the 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 or, where the ROC certifies the matters within section 32B(5), (6) or (8) of the Act, the location of the agent to whom, by virtue of article 19, the ROC was issued,
    - (iii) a description of that generating station or, where the ROC certifies the matters within section 32B(5), (6) or (8) of the Act, the generating stations to which the ROC relates, including reference to the renewable source or sources used to generate electricity,
    - (iv) the date of issue of the ROC, and
    - (v) the number given to the ROC by the Authority.
4. A person may only be the registered holder of a ROC or have an entry made and maintained in respect of them under article 93(3)(b) if they provide to the Authority in writing—
  - (a) evidence of their identity, and
  - (b) where persons are authorised to act on their behalf in respect of the production of ROCs under article 7(2) or in respect of requests for amendments to be made to the Register as provided for in this Schedule, details of those persons.

<sup>(65)</sup> OJ No L 309, 24.11.2009, p71.

5. The Authority may from time to time draw up procedural guidelines for itself and others to assist it in maintaining the Register and carrying out its functions in respect of the Register.

6. The Authority must delete from the Register—

- (a) any ROC which has been revoked by it,
- (b) any ROC which has been produced to it under article 7(2),
- (c) any ROC which is no longer eligible to be produced to it under article 7(2),
- (d) any ROC which it is asked to delete from the Register by the registered holder of the ROC, or
- (e) any ROC which has been (according to the Northern Ireland authority) produced to the Northern Ireland authority by a Northern Ireland supplier under a NIRO Order,

and after a ROC is so deleted, it cannot be produced to the Authority under article 7(2).

7. Where the registered holder of a ROC and a person whom the holder wishes to be the registered holder of it require the Register to be amended, by substituting for the name of the registered holder the name of the other person (“the substitute”)—

- (a) the substitute must be a person whose name is included on the list referred to in article 93(3)(b),
- (b) the registered holder and the substitute must each submit to the Authority in writing requests which are identical in all material respects, and
- (c) where the requirements of sub-paragraphs (a) and (b) are met, the Authority must, within 5 banking days after the banking day on which (at the commencement of its working hours) it is first in possession of the requests, amend the particulars of the ROC recorded in the Register to show the substitute as the registered holder.

8. Where the Authority receives requests under paragraph 7(b) it must inform both the registered holder of the ROC and the substitute that the requests have been received and, in the event that the requests are not identical in all material respects, must draw this to their attention.

9. Where—

- (a) a ROC is issued under this Order, or
- (b) a substitute is recorded as the registered holder of a ROC pursuant to paragraph 7,

the Authority must notify the registered holder or, as the case may be, the former and new registered holder of that fact in writing within 5 banking days of the issue or substitution having taken place.

10. The substitute cannot be the registered holder of a ROC until such time as the particulars of the ROC recorded in the Register identify the substitute as such.

11. The Register may be amended by a decision of the Authority—

- (a) where the Authority is satisfied that an entry in the Register has been obtained by fraud,
- (b) where a decision of a Court of competent jurisdiction or the operation of law requires the amendment of the Register, or
- (c) where the Authority is satisfied that, for some other reason, it is necessary to amend the Register (for example, because an entry in it is incorrect).

12. The contents of the Register (including the entries referred to in article 93(3)(b)) must be available for inspection by the public on request at reasonable notice during the Authority’s working hours and at the request of any person the Authority must provide a written statement of any entry on the Register including any entry referred to in article 93(3)(b).



13. Where any person considers that an entry maintained in respect of them under article 93(3) (b) should be amended or deleted, they may apply to the Authority in writing requesting that the entry be amended or deleted.

14. The Authority must in any procedural guidelines which it produces provide details of its usual working hours.

15. In this Schedule, “banking day” means a day on which banks are generally open in the City of London excluding Saturdays and Sundays.

## SCHEDULE 5

Articles 14, 32, 33, 34, 35,36, 37, 42 and

57

### ELECTRICITY TO BE STATED IN ROCs

Article 36

## PART 1

### INTERPRETATION

1.—(1) In this Schedule—

“2009/11 dedicated biomass station” means a generating station which has, in any month after March 2009 and before November 2011, generated electricity—

- (a) only from biomass, and
- (b) in respect of which ROCs were issued for all or part of the electricity so generated during that month;

“AD” means electricity generated from gas formed by the anaerobic digestion of material which is neither sewage nor material in a landfill;

“advanced gasification/pyrolysis” means electricity generated from an advanced fuel which—

- (a) in the case of a gaseous fuel, has a gross calorific value of at least 4 megajoules per metre cubed at 25 degrees Celsius and 0.1 megapascals when measured at the inlet to the generating station, and
- (b) in the case of a liquid fuel, has a gross calorific value of at least 10 megajoules per kilogram at 25 degrees Celsius and 0.1 megapascals when measured at the inlet to the generating station;

“building mounted solar PV” means electricity generated from the direct conversion of sunlight into electricity by equipment not installed on the ground either—

- (a) directly, or
- (b) on a frame, plinth or other structure installed—
  - (i) on the ground, and
  - (ii) wholly or mainly for the purpose of supporting that equipment;

“closed landfill gas” means electricity generated—

- (a) from landfill gas (other than electricity generated using the heat from a turbine or engine), and

- (b) in a month in which the generating station generates electricity only from gas formed by the digestion of material in a landfill which has finally ceased to accept waste for disposal;

“co-firing of regular bioliquid” means electricity generated from regular bioliquid burned in a combustion unit in a month in which—

- (a) the energy content of the biomass burned in that combustion unit is less than 100% of the energy content of all of the energy sources burned in that combustion unit during that month, and
- (b) the generating station generates electricity partly from fossil fuel and partly from renewable sources;

“co-firing of regular bioliquid with CHP” means electricity generated from regular bioliquid burned by a qualifying CHP station in a combustion unit in a month in which—

- (a) the energy content of the biomass burned in that combustion unit is less than 100% of the energy content of all of the energy sources burned in that combustion unit during that month,
- (b) the station generates electricity partly from fossil fuel and partly from renewable sources, and
- (c) the fossil fuel and regular bioliquid have been burned in separate combustion units;

“dedicated biomass” means electricity generated from regular bioliquid or regular biomass by a generating station—

- (a) which is not a relevant fossil fuel station, and
- (b) in a month in which it generates electricity only from biomass;

“dedicated biomass with CHP” means electricity generated from regular bioliquid or regular biomass by a qualifying CHP station—

- (a) which is not a relevant fossil fuel station, and
- (b) in a month in which it generates electricity only from biomass;

“dedicated energy crops” means electricity generated from energy crops by a generating station—

- (a) which is not a relevant fossil fuel station, and
- (b) in a month in which the station generates electricity only from energy crops or only from biomass;

“energy from waste with CHP” means electricity generated from the combustion of waste (other than an advanced fuel or a fuel produced by means of anaerobic digestion) in a qualifying CHP station in a month in which the station generates electricity only from renewable sources and those renewable sources include waste which is not biomass;

“geopressure” means electricity generated using naturally occurring subterranean pressure;

“geothermal” means electricity generated using naturally occurring subterranean heat;

“ground mounted solar PV” means electricity generated from the direct conversion of sunlight into electricity by equipment installed on the ground either—

- (a) directly, or
- (b) on a frame, plinth or other structure installed—
- (i) on the ground, and
- (ii) wholly or mainly for the purpose of supporting that equipment;

“high-range co-firing” means electricity generated from energy crops or regular biomass burned in a combustion unit in a month in which—

- (a) the energy content of the biomass burned in that combustion unit is at least 85% but is less than 100% of the energy content of all of the energy sources burned in that combustion unit during that month, and
- (b) the generating station generates electricity partly from fossil fuel and partly from renewable sources;

“high-range co-firing with CHP” means electricity generated from energy crops or regular biomass burned by a qualifying CHP station in a combustion unit in a month in which—

- (a) the energy content of the biomass burned in that combustion unit is at least 85% but is less than 100% of the energy content of all of the energy sources burned in that combustion unit during that month,
- (b) the station generates electricity partly from fossil fuel and partly from renewable sources, and
- (c) the fossil fuel has been burned in a separate combustion unit from the energy crops or regular biomass;

“hydroelectric” means electricity generated by a hydro generating station;

“landfill gas heat recovery” means electricity generated using the heat from a turbine or engine, where that turbine or engine is generating electricity from landfill gas;

“low-range co-firing” means electricity generated from energy crops or regular biomass burned in a combustion unit in a month in which—

- (a) the energy content of the biomass burned in that combustion unit is less than 50% of the energy content of all of the energy sources burned in that combustion unit during that month, and
- (b) the generating station generates electricity partly from fossil fuel and partly from renewable sources;

“low-range co-firing with CHP” means electricity generated from energy crops or regular biomass burned by a qualifying CHP station in a combustion unit in a month in which—

- (a) the energy content of the biomass burned in that combustion unit is less than 50% of the energy content of all of the energy sources burned in that combustion unit during that month,
- (b) the station generates electricity partly from fossil fuel and partly from renewable sources, and
- (c) the fossil fuel has been burned in a separate combustion unit from the energy crops or regular biomass;

“mid-range co-firing” means electricity generated from energy crops or regular biomass burned in a combustion unit in a month in which—

- (a) the energy content of the biomass burned in that combustion unit is at least 50% but is less than 85% of the energy content of all of the energy sources burned in that combustion unit during that month, and
- (b) the generating station generates electricity partly from fossil fuel and partly from renewable sources;

“mid-range co-firing with CHP” means electricity generated from energy crops or regular biomass burned by a qualifying CHP station in a combustion unit in a month in which—

- (a) the energy content of the biomass burned in that combustion unit is at least 50% but is less than 85% of the energy content of all of the energy sources burned in that combustion unit during that month,
- (b) the station generates electricity partly from fossil fuel and partly from renewable sources, and
- (c) the fossil fuel has been burned in a separate combustion unit from the energy crops or regular biomass;

“offshore wind” means electricity generated from wind by a generating station that is offshore;

“onshore wind” means electricity generated from wind by a generating station that is not offshore;

“regular bioliquid” means bioliquid other than—

- (a) advanced fuel,
- (b) fuel produced by means of anaerobic digestion,
- (c) energy crops;

“regular biomass” means biomass other than—

- (a) advanced fuel,
- (b) fuel produced by means of anaerobic digestion,
- (c) bioliquid,
- (d) energy crops,
- (e) landfill gas,
- (f) sewage gas;

“relevant fossil fuel CHP station” means a relevant fossil fuel station which is a qualifying CHP station;

“relevant fossil fuel station” means—

- (a) a generating station—
  - (i) which is not a 2009/11 dedicated biomass station, and
  - (ii) which has, in any 6 month period since it was first commissioned, generated electricity from fossil fuel, where the energy content of the fossil fuel was more than 15% of the energy content of all of the energy sources used by the station to generate electricity during that 6 month period, or
- (b) a generating station—
  - (i) which is a 2009/11 dedicated biomass station, and
  - (ii) which has, in any 6 month period since 1st November 2011, generated electricity from fossil fuel, where the energy content of the fossil fuel was more than 15% of the energy content of all of the energy sources used by the station to generate electricity during that 6 month period;

“solar photovoltaic” means electricity generated from the direct conversion of sunlight into electricity;

“standard gasification/pyrolysis” means electricity generated from an advanced fuel which—

- (a) in the case of a gaseous fuel, has a gross calorific value which is at least 2 megajoules per metre cubed but is less than 4 megajoules per metre cubed at 25 degrees Celsius and 0.1 megapascals when measured at the inlet to the generating station, and

- (b) in the case of a liquid fuel, has a gross calorific value which is less than 10 megajoules per kilogram at 25 degrees Celsius and 0.1 megapascals when measured at the inlet to the generating station;

“station conversion” means electricity generated—

- (a) from regular bioliquids, energy crops or regular biomass,
- (b) by a relevant fossil fuel station, and
- (c) in a month in which the station generates electricity only from biomass or only from energy crops;

“station conversion with CHP” means electricity generated—

- (a) from regular bioliquids, energy crops or regular biomass,
- (b) by a relevant fossil fuel CHP station, and
- (c) in a month in which the station generates electricity only from biomass or only from energy crops;

“tidal impoundment” means electricity generated by a generating station driven by the release of water impounded behind a barrier using the difference in tidal levels where the station has a declared net capacity of less than 1 gigawatt;

“tidal stream” means electricity generated from the capture of the energy created from the motion of naturally occurring tidal currents in water;

“unit conversion” means electricity generated from regular bioliquids, energy crops or regular biomass burned in a combustion unit in a month in which—

- (a) that combustion unit burns only biomass or burns only energy crops, and
- (b) the generating station generates electricity partly from fossil fuel and partly from renewable sources;

“unit conversion with CHP” means electricity generated from regular bioliquids, energy crops or regular biomass burned by a qualifying CHP station in a combustion unit in a month in which—

- (a) that combustion unit burns only biomass or burns only energy crops, and
- (b) the station generates electricity partly from fossil fuel and partly from renewable sources;

“wave” means electricity generated from the capture of the energy created from the motion of naturally occurring waves on water.

(2) For the purposes of this Schedule—

- (a) fossil fuel does not include waste which is a renewable source;
- (b) in determining how electricity has been generated, no account is to be taken of any fossil fuel or waste which a generating station uses for permitted ancillary purposes;
- (c) in determining the energy content of the energy sources used by a generating station to generate electricity, no account is to be taken of any fossil fuel or waste which the station uses for permitted ancillary purposes; and
- (d) in determining the energy content of the energy sources burned in a combustion unit, no account is to be taken of any fossil fuel or waste which is used in that combustion unit for permitted ancillary purposes.

Article 33

## PART 2

AMOUNT OF ELECTRICITY TO BE STATED IN ROCs ISSUED  
FOR ELECTRICITY GENERATED USING PRE-2013 CAPACITY

<i>Way of generating electricity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued for electricity generated using pre-2013 capacity</i>
AD	$\frac{1}{2}$
Advanced gasification/pyrolysis	$\frac{1}{2}$
Co-firing of regular bioliquid	2
Dedicated biomass	$\frac{2}{3}$
Dedicated energy crops	$\frac{1}{2}$
Electricity generated from landfill gas	4
Electricity generated from sewage gas	2
Energy from waste with CHP	1
Geopressure	1
Geothermal	$\frac{1}{2}$
High-range co-firing	$\frac{10}{9}$
Hydroelectric	1
Low-range co-firing	2
Mid-range co-firing	$\frac{5}{3}$
Offshore wind	$\frac{1}{2}$
Onshore wind	1
Solar photovoltaic	$\frac{1}{2}$
Standard gasification/pyrolysis	1
Station conversion	1

<i>Way of generating electricity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued for electricity generated using pre-2013 capacity</i>
Tidal impoundment	$\frac{1}{2}$
Tidal stream	$\frac{1}{2}$
Unit conversion	1
Wave	$\frac{1}{2}$

Articles 33 and 42

## PART 3

AMOUNT OF ELECTRICITY TO BE STATED IN ROCs ISSUED  
FOR ELECTRICITY GENERATED USING 2013/14 CAPACITY,  
2014/15 CAPACITY, 2015/16 CAPACITY OR POST-2016 CAPACITY

<i>Way of generating electricity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued for electricity generated using—</i>			
	<i>2013/14 capacity</i>	<i>2014/15 capacity</i>	<i>2015/16 capacity</i>	<i>post-2016 capacity</i>
AD	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{10}{19}$	$\frac{5}{9}$
Advanced gasification/ pyrolysis	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{10}{19}$	$\frac{5}{9}$
Building mounted solar PV	$\frac{10}{17}$	$\frac{5}{8}$	$\frac{2}{3}$	$\frac{5}{7}$
Closed landfill gas	5	5	5	5
Co-firing of regular bioliquid	2	2	2	2
Dedicated biomass	$\frac{2}{3}$	$\frac{2}{3}$	$\frac{2}{3}$	$\frac{5}{7}$
Dedicated energy crops	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{10}{19}$	$\frac{5}{9}$

Way of generating electricity	Amount of electricity (in megawatt hours) to be stated in a ROC issued for electricity generated using—			
	2013/14 capacity	2014/15 capacity	2015/16 capacity	post-2016 capacity
Electricity generated from sewage gas	2	2	2	2
Energy from waste with CHP	1	1	1	1
Geopressure	1	1	1	1
Geothermal	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{10}{19}$	$\frac{5}{9}$
Ground mounted solar PV	$\frac{5}{8}$	$\frac{5}{7}$	$\frac{10}{13}$	$\frac{5}{6}$
High-range co-firing	$\frac{10}{9}$	$\frac{10}{9}$	$\frac{10}{9}$	$\frac{10}{9}$
Hydroelectric	$\frac{10}{7}$	$\frac{10}{7}$	$\frac{10}{7}$	$\frac{10}{7}$
Landfill gas heat recovery	10	10	10	10
Low-range co-firing	2	2	2	2
Mid-range co-firing	$\frac{5}{3}$	$\frac{5}{3}$	$\frac{5}{3}$	$\frac{5}{3}$
Offshore wind	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{10}{19}$	$\frac{5}{9}$
Onshore wind	$\frac{10}{9}$	$\frac{10}{9}$	$\frac{10}{9}$	$\frac{10}{9}$
Standard gasification/pyrolysis	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{10}{19}$	$\frac{5}{9}$
Station conversion	1	1	1	1
Tidal impoundment	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{10}{19}$	$\frac{5}{9}$
Tidal stream	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$



<i>Way of generating electricity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued for electricity generated using—</i>			
	<i>2013/14 capacity</i>	<i>2014/15 capacity</i>	<i>2015/16 capacity</i>	<i>post-2016 capacity</i>
Unit conversion	1	1	1	1
Wave	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$

Article 34

## PART 4

AMOUNT OF ELECTRICITY TO BE STATED IN  
ROCS ISSUED FOR ELECTRICITY GENERATED BY  
MICROGENERATORS TO WHICH ARTICLE 34 APPLIES

<i>Category of generating capacity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC</i>
Pre-2013 capacity	$\frac{1}{2}$
2013/15 capacity	$\frac{1}{2}$
2015/16 capacity	$\frac{10}{19}$
Post-2016 capacity	$\frac{5}{9}$

Article 35

## PART 5

### AMOUNT OF ELECTRICITY TO BE STATED IN ROCs ISSUED FOR ELECTRICITY GENERATED USING PRE-2013 CAPACITY OR 2013/15 CAPACITY WHERE ARTICLE 35(3) OR (4) APPLIES

<i>Way of generating electricity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued in respect of the qualifying proportion of electricity generated using pre-2013 capacity or 2013/15 capacity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued in respect of the remainder of the electricity generated using pre-2013 capacity or 2013/15 capacity</i>
Co-firing of regular bioliquid with CHP	1	2
Dedicated biomass with CHP	$\frac{1}{2}$	$\frac{2}{3}$
High-range co-firing with CHP	$\frac{5}{7}$	$\frac{10}{9}$
Low-range co-firing with CHP	1	2
Mid-range co-firing with CHP	$\frac{10}{11}$	$\frac{5}{3}$
Station conversion with CHP	$\frac{2}{3}$	1
Unit conversion with CHP	$\frac{2}{3}$	1

Article 35

## PART 6

### AMOUNT OF ELECTRICITY TO BE STATED IN ROCs ISSUED FOR ELECTRICITY GENERATED USING 2015/16 CAPACITY WHERE ARTICLE 35(5) APPLIES

<i>Way of generating electricity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued in respect of the qualifying proportion of electricity generated using 2015/16 capacity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued in respect of the remainder of the electricity generated using 2015/16 capacity</i>
Co-firing of regular bioliquid with CHP	1	2

<i>Way of generating electricity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued in respect of the qualifying proportion of electricity generated using 2015/16 capacity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued in respect of the remainder of the electricity generated using 2015/16 capacity</i>
Dedicated biomass with CHP	$\frac{10}{19}$	$\frac{2}{3}$
High-range co-firing with CHP	$\frac{5}{7}$	$\frac{10}{9}$
Low-range co-firing with CHP	1	2
Mid-range co-firing with CHP	$\frac{10}{11}$	$\frac{5}{3}$
Station conversion with CHP	$\frac{2}{3}$	1
Unit conversion with CHP	$\frac{2}{3}$	1

Article 35

## PART 7

AMOUNT OF ELECTRICITY TO BE STATED IN ROCs  
ISSUED FOR ELECTRICITY GENERATED USING  
POST-2016 CAPACITY WHERE ARTICLE 35(6) APPLIES

<i>Way of generating electricity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued in respect of the qualifying proportion of electricity generated using post-2016 capacity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued in respect of the remainder of the electricity generated using post-2016 capacity</i>
Co-firing of regular bioliquid with CHP	1	2
Dedicated biomass with CHP	$\frac{5}{9}$	$\frac{5}{7}$
High-range co-firing with CHP	$\frac{5}{7}$	$\frac{10}{9}$
Low-range co-firing with CHP	1	2

<i>Way of generating electricity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued in respect of the qualifying proportion of electricity generated using post-2016 capacity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued in respect of the remainder of the electricity generated using post-2016 capacity</i>
Mid-range co-firing with CHP	$\frac{10}{11}$	$\frac{5}{3}$
Station conversion with CHP	$\frac{2}{3}$	1
Unit conversion with CHP	$\frac{2}{3}$	1

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order consolidates and re-enacts the Renewables Obligation Order 2009 ([S.I. 2009/785](#)) (the “2009 Order”) as amended and makes new provision. It imposes an obligation (“the renewables obligation”), on all electricity suppliers licensed under the Electricity Act 1989 (“the Act”) which supply electricity in England and Wales, to produce a certain number of renewables obligation certificates in respect of each megawatt hour of electricity that each supplies to customers in England and Wales during a specified period known as an “obligation period” (article 7). It also “bands” the different technologies that are used to generate electricity from renewable sources, meaning that the number of certificates that will be issued in respect of that electricity depends on the way in which that electricity has been generated. The renewables obligation is administered by the Gas and Electricity Markets Authority (“the Authority”) who issues renewable obligation certificates to renewable electricity generators based on their renewable output. These certificates are sold to electricity suppliers with or without the associated renewable electricity.

Alternatively, instead of producing the required number of certificates in respect of all or part of their renewables obligation, a supplier is permitted to make a payment to the Authority (articles 67 and 68).

This Order contains provisions (in articles 2, 3, 4, 5, 61(1), 62, 78, 80, 83 and 86(2), Schedule 1 and paragraphs 1, 2, 5(1),(4),(5) and (6) of Schedule 3) which implement, in relation to the renewable obligation, Articles 17 to 19 of [Directive 2009/28/EC](#) of the European Parliament and of the Council on the promotion of the use of energy from renewable sources (“the Renewables Directive”) and Commission Decision 2011/13/EU (the “Commission Decision”) on certain types of information about biofuels and bioliquids to be submitted by economic operators to Member States.

Part 1 sets out the interpretation provisions for the Order, defines “biomass”, “waste” and a “grace period generating station” and sets out how to determine the proportion of a fossil derived bioliquid which is to be treated as being composed of fossil fuel. In particular, article 3 defines “biomass” and also sets out the circumstances in which a fuel (not being biomass), may be treated as biomass

by virtue of being used in a generating station with biomass. It also provides how the proportion of biomass which is composed of fossil fuel is to be determined.

Article 5 specifies, as provided for in section 32M of the Act, that renewable waste (defined as waste of which not more than 90% is, or is derived from, fossil fuel) constitutes a renewable source. It also sets out how the proportion of waste which is, or is derived from, fossil fuel is to be determined and includes specific provisions relating to municipal waste.

Article 6 defines a “grace period generating station” as a station that was registered as a grace period generating station under article 58ZA of the 2009 Order where that registration has not been withdrawn.

Part 2 sets out how the renewables obligation is calculated and what a supplier needs to do to meet their obligation. In particular, articles 8 to 11 set out the calculations that the Secretary of State must undertake before the start of each obligation period to determine the total UK renewables obligation for that period.

Article 12 sets out the circumstances where each calculation is to be used to determine the total obligation for electricity suppliers in England and Wales.

Article 13 determines the number of renewables obligation certificates to be produced by individual electricity suppliers to discharge their renewables obligation. Paragraph (3) of this article requires the Secretary of State to publish, by the 1st of October preceding each annual obligation period, the number of renewables obligation certificates that a supplier will be required to produce in respect of each megawatt hour of electricity that it supplies to customers in England and Wales.

Article 14 provides for an electricity supplier to discharge its renewables obligation by the production to the Authority of a Northern Ireland certificate (a renewables obligation certificate issued by the Northern Ireland authority). This article also sets out the maximum proportion of their obligation which licensed suppliers are able to meet by presenting renewables obligation certificates issued in respect of electricity generated by bioliquid.

In Part 3, article 16 sets out those conditions that need to be met for electricity to be regarded as having been supplied to customers in Great Britain or Northern Ireland for the purposes of section 32B(3) to (6) of the Act. Article 17 sets out when electricity is to be regarded as being used in a permitted way for the purposes of section 32B(7) and (8) of the Act.

In Part 4, articles 18 to 25 provide for the issue of renewables obligation certificates by the Authority (“ROCs”). Article 24 provides for the revocation of ROCs in certain circumstances. Article 25 requires the Authority, in certain circumstances, to refuse to issue further ROCs to a generator.

In Part 5, articles 26 and 27 define “RO input electricity” and “RO output electricity”. Article 28 sets out how the number of ROCs relating to a generating station’s RO eligible renewable output is to be calculated and makes new provision for postponing the issue of ROCs in respect of electricity generated using biomass in certain circumstances. Article 29 sets out how the RO eligible renewable output of a generating station is to be calculated. Article 30 makes specific modifications for qualifying combined heat and power generating stations.

In Part 6, article 31 sets out how the RO eligible renewable output of a generating station is to be apportioned when electricity is generated by two or more types of generating capacity (e.g. pre-2013 capacity, 2013/14 capacity, 2014/15 capacity). Article 32 sets out how the RO eligible renewable output of a generating station is to be apportioned when electricity is generated in two or more ways (e.g. anaerobic digestion, advanced gasification/pyrolysis, co-firing of regular bioliquid) including how to apportion between different non-fuelled ways of generating.

Articles 33 to 40 are the “banding provisions”, which govern the amount of electricity in respect of which each ROC is to be issued. Article 33 contains the general rule, which is that the amount of electricity in respect of which a ROC is to be issued is determined by the relevant capacity with which it was generated as well as the way in which the electricity was generated, in accordance with the relevant Part of Schedule 5. There are special provisions governing ROCs issued to microgenerators

(article 34), qualifying combined heat and power generating stations (article 35), low-range co-firing of relevant energy crops (article 36), generating stations which were accredited as at 11th July 2006 (article 37), generating stations which were accredited or held preliminary accreditation as at 31st March 2009 (article 38), offshore wind turbines installed between 2006 and 2010 (article 39), and wave and tidal stream generating stations (article 40).

Article 41 sets out conditions which must be satisfied before those banding provisions apply to certain generating stations in respect of which a statutory grant has been awarded. Article 42 enables the Secretary of State to review the banding provisions at four yearly intervals, with a view to their possible amendment under section 32D of the Act, with the first review commencing in October 2018. A review may also occur at any other time if any of the circumstances set out in article 42(2) arise.

In Part 7, articles 43 to 65 set out circumstances in which ROCs are not to be issued. In particular, article 48 widens the cases and circumstances in which ROCs must not be issued, to include circumstances where a capacity agreement (an instrument which confers rights and imposes obligations on those awarded an agreement) has been issued in respect of a combustion unit. Article 48 also sets out the circumstances in which a combustion unit can withdraw from the capacity market and retain its eligibility for ROCs in respect of electricity generated only from biomass. Article 50 sets out that if the station or unit is subject to an investment contract (a contract with an electricity generator entered into by the Secretary of State), and that investment contract is terminated for a permitted termination event, the station or unit is able to regain its eligibility for ROCs. Article 63 sets out new mandatory sustainability requirements for biomass, stipulating that ROCs are not to be issued in respect of electricity generated from biomass by stations of 1 megawatt or above unless the biomass meets the “greenhouse gas criteria” and “land criteria” specified in Schedules 2 and 3.

Where suppliers discharge their renewables obligation (in whole or in part) by making payments to the Authority, the payments are held in the “buyout” and “late payment” funds. Part 8 sets out how the buyout and late payment funds are to be handled. Articles 69 and 70 require the Authority to make payments from those funds into the consolidated fund and to the Northern Ireland Authority to pay for the costs of administering the renewables obligation. Once these payments have been made, article 71 requires the remainder of the money in the funds to be paid to those UK suppliers who have discharged their renewables obligation (in whole or in part) by presenting renewables obligation certificates. An exception to this applies where £50,000 or less is all that is held in the late payment fund, in which case that amount is to be retained by the Authority and paid out in the following obligation period (article 70).

Part 8 also contains “mutualisation” provisions (articles 72 to 77). These provisions deal with a situation where the amount held in the buyout and late payment funds is less than the amount that should be held in those funds. Such a situation would only occur where a licensed supplier failed to discharge its renewables obligation by presenting certificates and/or making payments as required by the Order. Where the mutualisation provisions apply, suppliers are required to make a payment to the Authority in respect of the mutualisation sum. Articles 75 and 76 provide for this payment to be re-calculated in certain circumstances.

Part 9 makes provision concerning information which is to be provided to the Authority and the Secretary of State. In particular, article 82 sets out the information to be provided to the Authority where electricity is generated from biomass. It imposes a new requirement to report on the proportion of the biomass used that was hardwood and softwood and on the proportion of the biomass that is likely to have come from a protected or threatened species of wood, and requires the operator to report on the specification that they used to determine whether any of the biomass was derived from a sawlog. However it does not require reporting of the species of wood, except in those cases where the wood was likely to have come from a protected or threatened species.

Article 83 requires operators of generating stations claiming ROCs for the generation of electricity from bioliquid to provide a bioliquid sustainability audit report and makes related provision. Article 84 requires a sustainability audit report to be provided to the Authority in respect of the information

submitted by the operator of a generating station in accordance with article 82(3)(c) of this Order (in the case of biomass which is waste), or for the purpose of demonstrating that the biomass meets the greenhouse gas criteria or the land criteria (in the case of other biomass). There are exceptions for certain types of biomass and the requirements do not apply in the case of generating stations with a total installed capacity of less than 1 megawatt.

Part 10 sets out the information which is to be exchanged with the Northern Ireland Authority (article 87). It also sets out functions to be discharged by the Authority, in addition to those it is required to discharge in order to administer the renewables obligation (articles 85 and 86).

Articles 88 to 90 provide for the preliminary accreditation and accreditation of generating stations. In order to be eligible to claim ROCs in respect of electricity generated from eligible renewable sources, a generating station must have obtained accreditation from the Authority. Part 10 also sets out the requirements for registering offshore wind turbines (article 91) and additional capacity (article 92).

Article 93 requires the Authority to establish and maintain a register of ROCs. Schedule 4 sets out the information that must be included in the register and makes related provision. Article 94 of Part 11 modifies the provisions of specific articles in this Order to enable a microgenerator to be able to claim ROCs on an annual rather than a monthly basis.

Article 95 revokes the 2009 Order, and its subsequent amending orders, the Renewables Obligation (Amendment) Order 2010 (S.I. 2010/829), the Renewables Obligation (Amendment) Order 2010 (S.I. 2010/1107), the Renewables Obligation (Amendment) Order 2011 (S.I. 2011/984), the Renewables Obligation (Amendment) Order 2013 (S.I. 2013/768) and the Renewables Obligation (Amendment) Order 2014 (S.I. 2014/893), subject to the saving provisions contained in article 95(2).

Article 96 makes transitional provision. Article 97 makes consequential amendments to the Renewables Obligation Closure Order 2014 (S.I. 2014/2388) as amended by the Renewables Obligation Closure (Amendment) Order 2015 (S.I. 2015/920).

Copies of British Standards referred to in this Order can be obtained from any of the sales outlets operated by the British Standards Institute (BSI), or by post from the BSI at Milton Keynes.

Copies of ISAE 3000 can be obtained from the International Federation of Accountants.

This Order has been notified under [Directive 98/34/EC](#) of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations.

The 2009 Order revoked and re-enacted the Renewables Obligation Order 2006 (S.I. 2006/1004) (“the 2006 Order”) as amended by the Renewables Obligation Order 2007 (Amendment) Order 2007 (S.I. 2007/1078). The 2009 Order was modified by the Renewables Obligation (Amendment) Order 2010 (S.I. 2010/1107), the Renewables Obligation (Amendment) Order 2011, the Renewables Obligation (Amendment) Order 2013 and the Renewables Obligation (Amendment) Order 2014. The 2009 Order implemented, in relation to the renewables obligation, Articles 17 to 19 of the Renewables Directive and the Commission Decision.

The European Commission has adopted guidelines (OJ No L 151, 17.6.2010, p19) to serve as the basis for the calculation of land carbon stocks as required by paragraph 10 of Part C of Annex 5 to the Renewables Directive. It has also adopted a Regulation (EU 1307/2014) establishing the criteria and geographic ranges for the determination of highly biodiverse grassland as required by Article 3(c) of the Renewables Directive.

A transposition note is annexed to the explanatory memorandum which is available alongside this Order on [www.legislation.gov.uk](http://www.legislation.gov.uk). Impact assessments of the effect this Order will have on business and the voluntary sector are available alongside the Order on that website.