STATUTORY RULES OF NORTHERN IRELAND

2009 No. 154

ELECTRICITY

The Renewables Obligation Order (Northern Ireland) 2009

Laid before the Assembly in draft

Made - - - - 27th March 2009

Coming into operation 1st April 2009

The Department of Enterprise, Trade and Investment makes the following Order in exercise of the powers conferred on it by Articles 52 to 55F and 66(3) of the Energy (Northern Ireland) Order 2003(**1**).

The Department has had regard to those matters stated in Article 54B(4) of that Order.

The Department has consulted the Northern Ireland Authority for Utility Regulation, the General Consumer Council for Northern Ireland, electricity suppliers to whom this Order applies, persons generating electricity from renewable sources in Northern Ireland and such other persons as it considers appropriate.

PART 1

Introductory Provisions

Citation and commencement

1. This Order may be cited as the Renewables Obligation Order (Northern Ireland) 2009 and shall come into operation on 1st April 2009.

Interpretation

2.—(1) In this Order—

"the 2007 Order" means the Renewables Obligation Order (Northern Ireland) 2007(**2**);

"accreditation", in relation to a generating station means accreditation of the generating station in Northern Ireland by the Authority as one which is capable of generating electricity, from renewable sources (and includes accreditation granted before 1st April 2009);

(**1**) S.I. 2003/419 (N.I.6); Article 52 to 55F were substituted for Articles 52 to 55 by S.R. 2009 No.35

(**2**) S.R. 2007 No. 104 as amended by S.R. 2007 No.440.

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

"biomass" is to be construed in accordance with Article 4;

"CEN/TS 15359:2006" means the document identified by Standard Number DD CEN/TS 15359 and entitled "Solid recovered fuels. Specifications and classes" published by the European Committee for Standardisation on 30th June 2006(**3**);

"CEN/TS 15402:2006" means the document identified by Standard Number DD CEN/TS 15402 and entitled "Solid recovered fuels. Methods for the determination of the content of volatile matter" published by the European Committee for Standardisation on 30th November 2006(**4**);

"CEN/TS 15415:2006" means the document identified by Standard Number DD CEN/TS 15415 and entitled 'Solid recovered fuels. Determination by particle size and particle size distribution by screen method' published by the European Committee for Standardisation on 30th November 2006(**5**);

"CEN/TS 15590:2007" means the document identified by Standard Number DD CEN/TS 15590 and entitled "Solid recovered fuels. Determination of potential rate of microbial self heating using the real dynamic respiration" published by the European Committee for Standardisation on 29th June 2007(**6**);

"CHPQA" means the Combined Heat and Power quality Assurance Standard, Issue 2, November 2007, as published by the Department of Environment, Food and Rural Affairs, and Guidance Note 44 (Use of CHPQA to obtain Renewables Obligation Certificates (ROCs) Including Under a Banded Obligation (expected to apply from April 2009)), published by the Department of Energy and Climate Change;

"civil works", in relation to a hydro generating station, are to be regarded as all man-made weirs, man-made structures and man-made works for holding water, which are located on the inlet side of a turbine (turbine A) excluding any such structures or works which supply another turbine before water is supplied to the structures and works which supply turbine A;

"combined heat and power generating station" means a station producing electricity that is (or may be) operated for purposes including the supply of any premises of—

(a) heat produced in association with electricity; or

(b) steam produced from, or air or water heated by, such heat;

"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;

"the Company" means NIE Energy Ltd;

"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 the owner, operator or party within the meaning of section 839 of the Income and Corporation Taxes Act 1988(**7**);

"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

(**3**) ISBN 0580485350. Copies can be obtained from the British Standards Institution: www.bsi-global.com/en/
(**4**) ISBN 0580495485. Copies can be obtained from the British Standards Institution: www.bsi-global.com/en/
(**5**) ISBN 058049554X. Copies can be obtained from the British Standards Institution: www.bsi-global.com/en/
(**6**) ISBN 9780580576546. Copies can be obtained from the British Standards Institution www.bsi-global.com/en/
(**7**) 1988 c.1. Section 839 was amended by Section 74 of and Schedule 17, paragraph 20 to the Finance Act 1995 (c.4), by sections 89 and 178 of and Schedule 13, Part 2 paragraphs 7, 25 and 27(1) and Schedule 26, Part 3 to the Finance Act 2006 (c.25), by section 1027 of and Schedule 1, Part 1, paragraphs 1 and 223 to the Income Tax Act 2007 (c.3), and by regulations 47 and 100 of S.I. 2005/3229.

(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 plant;

"designated electricity supplier" except where it appears in the definition of "Great Britain designated supplier", is to be construed in accordance with Article 5(1);

"the Electricity Act" means the Electricity Act 1989(**8**);

"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 British Standards Institute on 28th June 1991)(**9**);

"energy crops" means a plant crop planted after 31st December 1989 which is grown primarily for the purpose of being used as fuel or which is one of the following—

(a) Miscanthus giganteus (a perennial grass);

(b) Salix (also known as short rotation coppice willow);

(c) Populus (also known as short rotation coppice poplar);

"the Energy Order" means the Energy (Northern Ireland) Order 2003;

"gasification" means the substoichiometric oxidation or steam reformation of a substance to produce a gaseous mixture containing two or all of the following: oxides of carbon, methane and hydrogen;

"GBRO Order" means any order made pursuant to section 32 of the Electricity Act;

"GBROC" means a certificate issued by the Great Britain Authority under section 32B of the Electricity Act and pursuant to a GBRO Order and, save where the context otherwise requires, includes a replacement GBROC;

"GBROC identifier" means an identifier unique to a GBROC determined by the Great Britain authority and containing the following information (or reference to that information in coded format)

(a) the month and year during which the electricity was generated;

(b) the location of the generating station or, where the GBROC certifies the matters within section 32B(5), (6) or (8) of the Electricity Act the location of the agent to whom the GBROC was issued under a GBRO Order;

(c) a description of the generating station including reference to the source or sources of fuel used by it or them to generate electricity or, where the GBROC certifies the matters within section 32B(5), (6) or (8) of the Electricity Act, the generating station to which the GBROC relates;

(d) the date of issue of the GBROC; and

(e) the number allocated to a GBROC by the Great Britain authority in accordance with a GBRO Order;

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

"Great Britain designated supplier" means a designated electricity supplier within the meaning of a GBRO Order;

"hazardous waste" means any waste which is hazardous waste as defined by Article 1(4) of the Hazardous Waste directive;

(**8**) 1989 c.29
(**9**) ISBN 0580194825. Copies can be obtained from the British Standards Institute; www.bsi-global.com/en/

"Hazardous Waste Directive" means Council Directive 91/689/EEC on hazardous waste (**10**), as amended by Council Directive 94/31/EC(**11**);

"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);

"landfill" has the meaning given in Article 2(g) of Council Directive 1993/31/EC(**12**).

"landfill gas" means gas formed by the digestion of material in a landfill.

"licensed supplier" means an electricity supplier or any electricity supplier within the meaning of Part I of the Electricity Act.

"linked person" in relation to a person who is a party a NFFO arrangement ("the first person"), means another person who has given or has arranged to give to the first person or has ensured that or has 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;

"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 NFFO arrangement;

"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 Article 57 of the Energy Order);

"NIROC" means a certificate issued by the authority under Article 54 of the Energy Order and pursuant to this Order;

"NIROC identifier" has the meaning given by paragraph 3 of Schedule 3;

"Non-Fossil Fuel Order" means the Electricity (Non-Fossil Fuel Sources) Order (Northern Ireland) 1994(**13**) or the Electricity (Non-Fossil Fuel Sources) Order (Northern Ireland) 1996(**14**);

"obligation period" means any of the periods referred to in the first column of Schedule 1;

"permitted ancillary purposes" is to be construed in accordance with Article 21(3) (fossil fuel or waste used for permitted ancillary purposes);

"plant", with reference to crops or plant matter, includes shrubs and trees;

"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 (and includes preliminary accreditation granted before 1st April 2009);

(**10**) OJ L 377, 31.12.1991, p. 20.
(**11**) OJ L 168, 2.7.1994, p. 28.
(**12**) OJL 182, 16.7 1999, p.1
(**13**) S.R. 1994 No. 132
(**14**) S.R. 1996 No. 407

"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 combined heat and power generating station" means a combined heat and power generating station which has been accredited under CHPQA;

"qualifying power output" in relation to a qualifying combined heat and power generating station, has the meaning given to them in the CHPQA;

"Register" has the meaning given to it in Article 51(1);

"registered holder" has the meaning given to it in paragraph 3 of Schedule 3;

"regular biomass" means biomass other than—

(a) sewage gas,

(b) landfill gas,

(c) energy crops,

(d) fuel produced by means of anaerobic digestion, gasification or pyrolysis;

"renewables obligation" has the meaning given to it in Article 5(1);

"renewables obligation certificate" means—

(a) a renewables obligation certificate issued by the Authority under this Order;

(b) a GBROC;

"renewable output" is to be construed in accordance with Articles 23 and 24;

"Respiratory Index" means the rate of oxygen uptake expressed in milligrams of oxygen per kilogram of volatile solids per hour;

"retail prices index" means—

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

(b) where the index is not published for a year, any substituted index or figures published by that Office;

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

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

"Solid Recovered Fuel" means solid fuel which—

(a) complies with the classification and specification requirements in CEN/TS 15359:2006

(b) is prepared from a waste which is not a hazardous waste

(c) has a maximum Respiratory Index value 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 CEN/TS 15590:2007 and

(d) when subject to a methodology for the determination of particle size in accordance with CEN/TS 15415:2006 is able to pass through an opening measuring no more than 150 millimetres in all dimensions;

"total installed 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);

"total power output", in relation to a qualifying combined heat and power generating station, has the meaning given to it in the CHPQA;

"volatile solids" means any mass loss, corrected for moisture, when a solid is heated out of contact with air under the specified conditions and using the methods in CEN/TS 15402:2006; and

"waste" has the meaning given to it in Article 2(2) of the Waste and Contaminated Land (Northern Ireland) Order 1997(**15**) but does not include gas derived from landfill sites or gas produced from the treatment of sewage.

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

(a) a proportion of that waste or biomass is, or is derived from, fossil fuel, and

(b) in any month during which that waste or biomass is used that proportion varies,

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

(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 biomass, waste (not being biomass) which constitutes a renewable source and fossil fuel (including waste which does not constitute a renewable source).

(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 shall, in respect of a supply made in Northern Ireland, be construed in accordance with the definition of "supply" in Article 3 of the Electricity (Northern Ireland) Order 1992(**16**), and in respect of any other supply, be construed in accordance with the definition of "supply" in section 4(4) of the Electricity Act(**17**).

Waste as a renewable energy source

3.—(1) For the purposes of Articles 52 to 55F of the Energy Order and this Order, the term "renewable sources" includes waste of which not more than 90 per cent is waste which is, or is derived from, fossil fuel.

(2) The proportion of waste which is, or is 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 waste is in part composed or derived expressed as a percentage of the energy content of the waste as a whole.

(3) Where waste is used (whether on its own or not) to fuel a generating station, it is for the operator of the generating station to demonstrate to the Authority's satisfaction what proportion of the waste is, or is derived from, fossil fuel.

(4) Without prejudice to paragraph (3), when determining that proportion 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 what proportion of the waste is, or is derived from, fossil fuel.

(**15**) S.I. 1997/2778 (N.I.19)
(**16**) S.I. 1992/231 (N.I. 1).
(**17**) The definition of 'supply' in Section 4(4) of the Electricity Act was substituted by Section 28(1) and 3(b) of the Utilities Act 2000 (c). 27.

(5) But where the operator of a generating station in which municipal waste is used satisfies the Authority—

(a) by reference to data published by the Department of Environment or a district council, that the proportion of the municipal waste so used which is, or is derived from, fossil fuel, is unlikely to exceed 50 per cent, and

(b) that the municipal waste so used has not been subject to any process before being so used that is likely to have had a 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 per cent.

(6) Where—

(a) municipal waste is used in a generating station and—

(i) the Authority is not satisfied as to the matters identified in paragraph (5), 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 per cent; 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.

(7) In this Article "municipal waste" has the same meaning as in Chapter 1 of Part 1 of the Waste and Emissions Trading Act 2003(**18**);

Biomass and fuels which are to be treated as biomass

4.—(1) In this Order, "biomass" means fuel used in a generating station where—

(a) at least 90 per cent of its energy content is derived from relevant material (that is to say, material which is, or is derived directly or indirectly from, plant matter, animal matter, fungi or algae), and

(b) if fossil fuel forms part of it—

(i) the fossil fuel is present following a process—

(aa) to which the relevant material has been subject, and

(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.

(2) For the purposes of this Order, except Article 46 (information to be provided to the Authority where electricity is generated from biomass), 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 (within the meaning of the definition of biomass) and in part from fossil fuel;

(b) either—

(**18**) 2003 c.33. See sections 21 and 24 of that Act.

(i) the fossil fuel is present in it following a process—

(aa) to which its relevant material has been subject, and

(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 per cent of the total energy content of the fuel and the biomass with which the fuel is used is derived from relevant material.

(3) Accordingly, any reference in this Order to biomass, other than in Article 46 is to be construed as a reference to biomass or fuel which (by virtue of paragraph (2)) is to be treated as biomass.

(4) Where biomass (not being waste) 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.

(5) It is for the operator of the generating station to demonstrate to the Authority's satisfaction what proportion of the biomass is fossil fuel.

(6) When determining that proportion 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 what proportion of the biomass is fossil fuel.

(7) For the purposes of this Article, fossil fuel is not to be regarded as being derived directly or indirectly from plant matter, animal matter, fungi or algae.

PART 2

The Renewables Obligation

The renewables obligation

5.—(1) the renewables obligation is imposed on each electricity supplier supplying electricity in Northern Ireland (a "designated electricity supplier").

(2) The renewables obligation is that, subject to Articles 40 and 41 each designated electricity supplier must, by the specified day, produce to the Authority, in respect of each megawatt hour of electricity that he supplies to customers in Northern Ireland during an obligation period—

(a) subject to sub-paragraph (b), the number of renewables obligation certificates determined in accordance with Article 12;

(b) where the obligation period commences on 1st April 2009, 0.035 renewables obligation certificates for each megawatt hour so supplied.

(3) To enable the number referred to in paragraph (2)(a) to be determined, the Department must first determine, for the obligation period in question, calculations A, B, C and the total number of renewables obligation certificates required to be produced by designated electricity suppliers in accordance with Articles 6 to 11.

(4) Where the number of renewable obligation certificates 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

6. The part of calculation A referable to Great Britain is the estimate of megawatt hours of electricity likely to be supplied to customers in Great Britain during a particular obligation period, as estimated by the Secretary of State under Article 6(1) of the Renewables Obligation Order 2009(**19**) (Part of calculation A referable to Great Britain), multiplied by the figure which corresponds to that particular period in the second column of Schedule 1.

Part of calculation A referable to Northern Ireland

7.—(1) Before the start of each obligation period identified in the first column of Schedule 1, (except for the first such period), the Department 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 designated under this Order.

(2) The figure representing the number of megawatt hours so estimated for an obligation period is to be multiplied by the figure which corresponds to that period in the third column of Schedule 1.

Calculation A

8.—(1) The product of the calculation referred to in Article 6, added to the product of the calculation in Article 7(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 11 and 12 shall be construed accordingly.

Calculation B

9.—(1) Calculation B is the number of renewables obligation certificates likely to be issued in respect of renewable electricity for a particular obligation period, as estimated by the Secretary of State under Article 9(2) of the Renewables Obligation Order 2009, increased by 8%.

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

(3) References to calculation B in Articles 11 and 12 shall be construed accordingly.

(4) In this Article "renewable electricity" means electricity which is generated from renewable sources and in respect of which renewables obligation certificates may be issued.

Calculation C

10.—(1) The figure representing the sum of the estimates in Articles 6 and 7, multiplied by 0.2, is calculation C for that obligation period.

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

(3) References to calculation C in Articles 11 and 12 shall be construed accordingly.

Determining the number of renewables obligation certificates to be produced in an obligation period

11.—(1) Following the determination of calculations A, B and C for an obligation period, the Department is to determine the total number of renewables obligation certificates required to

(**19**) SI 2009 No. 785

be produced by designated suppliers ("the total obligation") for that period in accordance with paragraphs (2) to (5).

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

(3) Subject to paragraph (4), where calculation B is greater than calculation A for an obligation period, the total obligation for that period is calculation B.

(4) Where calculation B is greater than calculations A and C for an obligation period, the total obligation for that period is calculation C.

(5) References to the total obligation in Article 12 shall be construed accordingly.

(6) Determining the number of renewables obligation certificates to be produced by a designated electricity supplier in order to discharge his renewables obligation.

Determining the number of renewables obligation certificates to be produced by a designated electricity supplier in order to discharge his renewables obligation

12.—(1) Where the total obligation for an obligation period is calculation A, the number of renewables obligation certificates that a designated electricity supplier is required to produce in order to discharge his renewables obligation in respect of electricity that he supplies to customers in Northern Ireland during that period is, for each megawatt hour so supplied, the figure set out in the third column of Schedule 1 that corresponds to that period.

(2) Where the total obligation for an obligation period is calculation B, the number of renewables obligation certificates that a designated electricity supplier is required to produce in order to discharge his renewables obligation in respect of electricity that he supplies to customers in Northern Ireland during that period is, for each megawatt hour so supplied, equal to—

$$\frac{\text{Figure set out in third column of Schedule 1 for that period} \times \text{calculation B for that period}}{\text{calculation A for that period}}$$

(3) Where the total obligation for an obligation period is calculation C, the number of renewables obligation certificates that a designated electricity supplier is required to produce in order to discharge his renewables obligation in respect of electricity that he supplies to customers in Northern Ireland during that period is, for each megawatt hour so supplied, 0.2 renewables obligation certificates.

(4) The Department must publish, by the 1st October preceding an obligation period, the number of renewables obligation certificates that a designated electricity supplier is required to produce in respect of each megawatt hour of electricity that he supplies to customers in Northern Ireland during that period in order to discharge his renewables obligation for that period.

Further provision in relation to the production of renewables obligation certificates

13.—(1) A designated electricity supplier may discharge his renewables obligation by the production to the Authority of a GBROC.

(2) A designated electricity supplier may discharge up to 25 per cent of his renewables obligation in respect of an obligation period by producing to the Authority renewables obligation certificates relating to electricity supplied in the immediately preceding obligation period.

(3) Subject to paragraphs (4) and (5), no more than 12.5 per cent of a designated electricity supplier's renewables obligation may be satisfied by the production of renewables obligation certificates issued in respect of electricity generated by a generating station in any month during which it generated electricity partly from fossil fuel and partly from biomass.

(4) Paragraph (3) does not apply to the 1st April 2009 to 31st March 2010 obligation period where no more than 10 per cent of a designated electricity supplier's renewables obligation may be satisfied by the production of renewable obligation certificates issued in respect of electricity generated by a generating station in any month during which it generated electricity partly from fossil fuel and partly from biomass.

(5) In the case of a renewables obligation certificate issued in respect of electricity generated by a generating station in any month where it generated electricity partly from fossil fuel and partly from biomass the limits set out in paragraph (3) or (4) do not apply to the production of those certificates if and to the extent that the electricity in respect of which they were issued was generated by—

(a) co-firing of biomass with CHP;

(b) co-firing of energy crops; or

(c) co-firing of energy crops with CHP.

(6) In determining how electricity has been generated for the purposes of paragraphs (3) to (5), no account is to be taken of any fossil fuel which the generating station uses for permitted ancillary purposes.

(7) A designated electricity supplier must not produce to the Authority a renewables obligation certificate which has previously been or is produced to the Great Britain authority under a GBRO Order.

(8) In this Article—

"co-firing of biomass with CHP" "co-firing of energy crops" and "co-firing of energy crops with CHP" have the same meaning as in Schedule 2

PART 3

Matters to be certified by and content of NIROCs

Matters to be certified by NIROCs

14. Where a NIROC does not certify the matters within Article 54(3) of the Energy Order, it must certify the matters within paragraphs (4), (5), or (6) of that Article.

When electricity is to be regarded as supplied to customers in Northern Ireland

15. For the purposes of Articles 54(3) and (4) of the Energy Order, 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 under the circumstances described in Article 34(6).

When electricity used in a permitted way for NIROCs certifying matters within Article 54(5) or (6) of the Energy Order

16.—(1) For the purposes of Article 54(5) and (6) of the Energy Order (in particular, for the purposes of a NIROC certifying the matters within Article 54(5) or (6)) 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 Article 54(8) of that Order.

(2) Electricity is not used in a permitted way if it is supplied to customers in Northern Ireland through a private wire network and—

(a) the generating station from which the electricity is conveyed has a declared net capacity in excess of 10 megawatts, and

(b) 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 Article 10 of the Electricity Order.

PART 4

Cases and circumstances when a NIROC must not be issued

Excluded generating stations

17. NIROCs are not to be issued in respect of any electricity generated outside Northern Ireland.

Generating stations first commissioned before 1st January 1990

18.—(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) No NIROCs are to be issued in respect of 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—

(i) partly from fossil fuel, and

(ii) partly from renewable sources which consist wholly of—

(aa) biomass,

(bb) biomass and Solid Recovered Fuel, or

(cc) a liquid or gaseous fuel produced by means of gasification, pyrolysis or anaerobic digestion;

(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 per cent 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 per cent 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 generating 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 generating station

after 31st December 1989 and were not used for the purpose of electricity generation prior to their installation.

(4) For the purposes of paragraph (2)—

(a) in sub-paragraph (a)(i) fossil fuel does not include waste which is a renewable source, and

(b) in determining whether or not the requirements of sub-paragraph (a) or (b) are met, no account is to be taken of any fossil fuel or waste which the generating station uses for permitted ancillary purposes.

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

19.—(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, no NIROCs are to be issued in respect of 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

20.—(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, no NIROCs are to be issued in respect of 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 who is a party to the applicable NFFO arrangement or 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.

Circumstances in which no NIROCs are to be issued in respect of electricity generated from renewable sources

21.—(1) No NIROCs are to be issued in respect of electricity generated by a generating station in a month during all of part of which it generates electricity—

(a) wholly from renewable sources which consist of or include waste unless—

(i) the waste is biomass,

(ii) the waste is a liquid consisting wholly or mainly of hydrocarbon compounds,

(iii) the waste is in the form of a liquid or gaseous fuel produced by means of gasification, pyrolysis or anaerobic digestion, or

(iv) the generating station is a qualifying combined heat and power generating station;

(b) partly from renewable sources and partly from fossil fuel unless the renewable sources 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;

(c) partly from renewable sources and partly from fossil fuel where the fossil fuel consists of or includes waste unless that waste is—

(i) liquid consisting wholly or mainly of hydrocarbon compounds,

(ii) in the form of a liquid or gaseous fuel produced by means of gasification, pyrolysis or anaerobic digestion, or

(iii) Solid Recovered Fuel;

(d) wholly or partly from peat.

(2) In this Article—

(a) in paragraph (1)(a) and (c) and in sub-paragraph (c), waste includes anything derived directly or indirectly from waste;

(b) in paragraph (1)(b) and (c), fossil fuel does not include waste which is a renewable source; and

(c) in determining how electricity has been generated for the purposes of paragraph (1)(a), (b) or (c), no account is to be taken of any fossil fuel or waste which the generating station uses for permitted ancillary purposes.

(3) For the purposes of paragraph (2)(c), fossil fuel or waste (which includes anything derived directly or indirectly from waste) is used for permitted ancillary purposes if—

(a) it is used in a generating station for—

(i) cleansing other fuels from the generating station's combustion system prior to using fossil fuel or waste to heat the combustion system to its normal temperature;

(ii) the heating of the station's combustion system to its normal operating temperature or the maintenance of that temperature;

(iii) the ignition of fuels of low or variable calorific value;

(iv) emission control; or

(v) standby generation or the testing of standby generation capacity, and

(b) the energy content of the fossil fuel or waste so used during a month (or, where both are so used during a month, their combined energy content) does not exceed 10 per cent of the energy content of all the energy sources used by that generating station to generate electricity during that month.

(4) In this Article, "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.

PART 5

NIROCs to be issued by Authority in respect of renewable output

NIROCs to be issued by Authority in respect of a generation station's renewable output

22.—(1) The Authority is to issue NIROCs.

(2) Subject to paragraph (3) and Article 52 (modifications of this Order in relation to microgenerators in certain circumstances), NIROCs—

(a) are to be issued in respect of a generating station's renewable output in a month, and

(b) must not be issued before the end of the second month following that month.

(3) When issuing NIROCs in respect of electricity generated in a month by a generating station or, in the case of NIROCs certifying the matters within Article 54(4) or (6) of the Energy Order, two or more generating stations, the Authority must—

(a) determine the renewable output of that generating station or, as the case may be, those generating stations in that month in accordance with Article 23 or 24 (whichever is applicable);

(b) where one or more of the criteria set out in Articles 34 to 36 have to be satisfied before NIROCs can be issued in respect of that station's or those stations' renewable output, deduct from that output any electricity in respect of which any of those criteria are not satisfied; and

(c) issue NIROCs in respect of that station's or those stations' remaining renewable output, the amount of electricity to be stated in each NIROC being determined in accordance with Articles 25 to 30 (banding and grandfathering).

(4) This means that, where a generating station generates electricity—

(a) wholly from renewable sources a proportion of which is composed of fossil fuel,

(b) wholly from renewable sources and the input electricity used by the generating station in generating that electricity exceeds 0.5 per cent of the total amount of that electricity, or

(c) partly from renewable sources and partly from fossil fuel,

NIROCs are to be issued in respect of a proportion only of the electricity generated by the station.

(5) Where the number of megawatt hours of renewable output in respect of which NIROCs are to be issued does not equate to a whole number of NIROCs, 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 "input electricity", in relation to a generating station, means—

(a) the total amount of electricity used by that 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 NIROCs are or have been issued,

(ii) in respect of which NIROCs cannot be issued by virtue of any provision of Part 4 (cases and circumstances when a NIROC must not be issued), 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).

Calculating a generating station's renewable output

23.—(1) Subject to Article 24, the renewable output of a generating station in any month is equal to—

(a) Where the input electricity used by the generating station during that month does not exceed 0.5 per cent of the gross output of that station during that month, A;

(b) In any other case, $A \times \frac{B}{C}$

(2) In paragraph (1)—

(a) A is equal to $C \times \frac{D}{E}$ where—

(i) C is the gross output of the generating station during the month in question;

(ii) D is the energy content of all of the renewable sources used in generating that station's gross output during that month, less the energy content of—

(aa) any fossil fuel from which those renewable sources are in part composed (other than fossil fuel from which a fuel the energy content of which is deducted by virtue of sub-paragraphs (bb) to (dd) is in part composed);

(bb) any of those renewable sources which is Solid Recovered Fuel (other than Solid Recovered Fuel which constitutes biomass);

(cc) any of those renewable sources which is a liquid fuel produced by means of pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 10 megajoules per metre cubed;

(dd) except in the case of an excepted generating station, any of those renewable sources which is a gaseous fuel produced by means of gasification or pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 2 megajoules per metre cubed;

(iii) E is the energy content of all of the fuels used in generating that station's gross output that month.

(b) B is the gross output of that station during that month less the input electricity it uses during that month;

(c) C has the same meaning as in sub-paragraph (a)(i).

(3) Subject to paragraph (4), where during any month the renewable output of a generating station is generated in two or more ways and the amount of electricity to be stated in each NIROC issued in respect of that renewable output is not always the same (because the amount of electricity to be stated in NIROCs issued in respect of electricity generated in one or more of those ways differs from the amount to be stated in NIROCs issued in respect of some or all of the remaining electricity by virtue of Articles 25 to 30), the proportion of the station's renewable output which, for the purposes of those Articles, is generated in each of those ways is F ÷ G where—

(a) F is the energy content of the renewable sources used when generating electricity in that way during that month less the energy content of—

(i) any fossil fuel from which those renewable sources are in part composed (other than fossil fuel from which a fuel the energy content of which is deducted by virtue of paragraphs (ii) to (iv) is in part composed);

(ii) any of those renewable sources which is a Solid Recovered Fuel (other than Solid Recovered Fuel which constitutes biomass);

(iii) any of those renewable sources which is a liquid fuel produced by means of pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 10 megajoules per metre cubed;

(iv) except in the case of an excepted generating station, any of those renewable sources which is a gaseous fuel produced by means of gasification or pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 2 megajoules per metre cubed; and

(b) G is the energy content of all of the renewable sources used in generating that generating station's gross output during that month less the energy content of—

(i) any fossil fuel from which those renewable sources are in part composed (other than fossil fuel from which a fuel the energy content of which is deducted by virtue of paragraphs (ii) to (iv) is in part composed);

(ii) any of those renewable sources which is Solid Recovered Fuel (other than Solid Recovered Fuel which constitutes biomass);

(iii) any of those renewable sources which is a liquid fuel produced by means of pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 10 megajoules per metre cubed;

(iv) except in the case of an excepted generating station, any of those renewable sources which is a gaseous fuel produced by means of gasification or pyrolysis and which has a gross calorific value when measured 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 2 megajoules per metre cubed.

(4) In any month where the generating station generates some or all of its renewable output using mixed gas, the proportion of the station's renewable output which is, for the purposes of Articles 25 to 29—

(a) Generated using mixed gas in the way described as "AD" in Schedule 2 is $\frac{H}{I}$ x $\frac{J}{L}$;

(b) Generated using mixed gas in the way described as "electricity generated from sewage gas" in that Schedule is $\frac{H}{I}$ x $\frac{K}{L}$.

(5) In paragraph (4)—

(a) H is the energy content of the mixed gas used when generating the generating station's renewable output during the month in question;

(b) I is the energy content of all of the renewable sources used in generating that station's renewable output during that month;

(c) J is the dry mass of—

(i) any waste which constitutes a renewable source (other than sewage), and

(ii) any biomass (other than sewage),

from which the mixed gas used in generating that station's renewable output during that month is formed, less the dry mass of any digestible fossil fuel from which that waste or biomass is in part composed;

(d) K is the dry mass of the sewage from which the mixed gas used in generating that station's renewable output in that month is formed; and

(e) L is the dry mass of all of the material from which the mixed gas used in generating the station's renewable output during that month is formed, less the dry mass of any digestible fossil fuel from which that material is in part composed.

(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;

"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;

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

"input electricity" has the same meaning as in Article 22;

"mixed gas" means gas formed by the anaerobic digestion of sewage together with—

(a) Waste which constitutes a renewable source (other than sewage), or

(b) Biomass (other than sewage).

Renewable output of a qualifying combined heat and power generating station

24.—(1) For the purposes of determining the renewable output of a qualifying combined heat and power generating station in any month during which it generates electricity from waste (other than waste which constitutes biomass or is used for permitted ancillary purposes, or is in the form of a liquid or gaseous fuel produced by means of gasification, pyrolysis or anaerobic digestion), Article 23 applies subject to the following modifications.

(2) For paragraph (2)(a)(ii) of Article 23 substitute—

"(ii) D is the energy content of all of the renewable sources used in generating that station's gross output during that month, less the energy content of—

(aa) any fossil fuel from which those renewable sources are in part composed (other than fossil fuel from which a fuel the energy content of which is deducted by virtue of sub-paragraph (bb) or (cc) is in part composed);

(bb) any of those renewable sources which is a liquid fuel produced by means of pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 10 megajoules per metre cubed;

(cc) except in the case of an excepted generating station, any of those renewable sources which is a gaseous fuel produced by means of gasification or pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 2 megajoules per metre cubed,

multiplied by the proportion which the qualifying power output of that station bears to its total power;".

(3) For paragraph (3)(a) of that Article, substitute—

"(a) F is the energy content of the renewable sources used when generating electricity in that way during that month less the energy content of—

(i) any fossil fuel from which those renewable sources are in part composed (other than fossil fuel from which a fuel the energy content of which is deducted by virtue of paragraph (ii) or (iii) is in part composed);

(ii) any of those renewable sources which is a liquid fuel produced by means of pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 10 megajoules per metre cubed;

(iii) except in the case of an excepted generating station, any of those renewable sources which is a gaseous fuel produced by means of gasification or pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 2 megajoules per metre cubed; and".

(4) For paragraph (3)(b) of that Article, substitute—

"(b) G is the energy content of all of the renewable sources used in generating that generating station's gross output during that month less the energy content of—

(i) any fossil fuel from which those renewable sources are in part composed (other than fossil fuel from which a fuel the energy content of which is deducted by virtue of paragraph (ii) and (iii) is in part composed);

(ii) any of those renewable sources which is a liquid fuel produced by means of pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 10 megajoules per metre cubed;

(iii) except in the case of an excepted generating station, any of those renewable sources which is a gaseous fuel produced by means of gasification or pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 2 megajoules per metre cubed.".

PART 6

Banding and Grandfathering

The amount of electricity to be stated in each NIROC

25.—(1) Each NIROC is to state the amount of electricity in respect of which it has been issued.

(2) The amount of electricity to be stated in each NIROC depends on the way in which the electricity in respect of which it is to be issued has been generated.

(3) Subject to Articles 26 to 30 the amount of electricity to be stated in each NIROC shall be determined in accordance with paragraphs (4) and (5).

(4) Each NIROC to be issued in respect of electricity generated in a way described in the first column of Part 2 of Schedule 2 must state the amount of electricity which corresponds to that description in the second column of that Part of that Schedule.

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

Qualifying combined heat and power generating stations

26.—(1) Subject to Articles 27 and 30, where electricity generated by a qualifying combined heat and power generating station is generated in the way described as "co-firing of biomass" in Schedule 2, and the fossil fuel and regular biomass referred to are burnt in separate boilers, the amount of electricity to be stated in each NIROC is—

(a) in respect of the relevant proportion of that electricity, 1 megawatt hour; and

(b) in respect of the remainder of that electricity, 2 megawatt hours.

(2) Subject to Articles 27 and 30, where electricity generated by a qualifying combined heat and power generating station is generated in the way described as "co-firing of energy crops" in Schedule 2, and the fossil fuel and energy crops referred to are burnt in separate boilers or engines, the amount of electricity to be stated in each NIROC is—

(a) in respect of the relevant proportion of that electricity, 2/3rds of a megawatt hour; and

(b) in respect of the remainder of that electricity, 1 megawatt hour.

(3) Subject to Articles 27 and 30, where electricity generated by a qualifying combined heat and power generating station is generated in the way described as "dedicated biomass" in Schedule 2, the amount of electricity to be stated in each NIROC is—

(a) in respect of the relevant proportion of that electricity, ½ of a megawatt hour; and

(b) in respect of the remainder of that electricity, 2/3rds of a megawatt hour.

(4) In this Article, "the relevant proportion", in relation to electricity generated by a qualifying combined heat and power generating station, is the proportion which the qualifying power output of that station bears to its total power output.

Microgenerators

27.—(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) The amount of electricity to be stated in each NIROC which is issued in respect of electricity generated by a generating station to which this Article applies is 0.5 megawatt hours.

Generating stations which were accredited as at 11th July 2006

28.—(1) This Article applies to a generating station—

(a) which was accredited as at 11th July 2006;

(b) which has not ceased to be accredited since that date; and

(c) to which neither Article 26 nor Article 27 applies.

(2) Subject to paragraphs (3) to (6), the amount of electricity to be stated in each NIROC issued in respect of electricity generated by a generating station to which this Article applies to be determined in accordance with Article 25(4) and (5).

(3) Where the electricity generated by a generating station to which this Article applies is generated in a way described in the first column of Part 3 of Schedule 2, the amount of electricity to be stated in each NIROC issued in respect of that electricity is (subject to paragraphs (4) to (6)) the amount which corresponds to that description in the second column of that Part of that Schedule.

(4) 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 (3) applies only in relation to NIROCs 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 original capacity") is measured separately from electricity generated using capacity which has been added to the station since that date ("additional capacity"), the electricity which is generated using the station's original capacity;

(b) in any other case, the appropriate percentage of the electricity generated by the station (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 station as at the date of generation of the electricity).

(5) In relation to the remainder of the electricity generated by the generating station, the amount of electricity to be stated in each NIROC is to be determined in accordance with Article 25(4) and (5) except to the extent that the electricity—

(a) is generated using additional capacity which was operational before 1st April 2011 ("relevant additional capacity"); and

(b) is generated in a way described in the first column of Part 4 of Schedule 2.

(6) Where the electricity generated by the generating station is generated using relevant additional capacity in a way described in the first column of Part 4 of Schedule 2, the amount of electricity to be stated in each NIROC which is to be issued in respect of that electricity is the amount which corresponds to that description in the second column of that Part of that Schedule.

(7) In paragraphs (5) and (6), the reference to electricity being generated using relevant 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 generated by the generating station (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 station at that date).

(8) This Article is subject to Article 30.

Generating stations which were accredited, or held preliminary accreditation, as at 31st March 2009

29.—(1) This Article applies to a generating station—

(a) which was accredited as at 31st March 2009;

(b) which has not ceased to be accredited since that date; and

(c) to which Articles 26 to 28 do not apply.

(2) This Article also applies to 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;

(c) in respect of which preliminary accreditation was held—

(i) as at 31st March 2009, and

(ii) from that date until the date on which the station was accredited; and

(d) to which Articles 26 to 28 do not apply.

(3) Subject to paragraphs (4) to (6), the amount of electricity to be stated in each NIROC issued in respect of electricity generated by a generating station to which this Article applies is to be determined in accordance with Article 25(4) and (5).

(4) Where the electricity generated by a generating station to which this Article applies is generated in a way described in the first column of Part 4 of Schedule 2, the amount of electricity to be stated in each NIROC issued in respect of that electricity is (subject to paragraph (5)) the amount which corresponds to that description in the second column of that Part of that Schedule.

(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 NIROCs 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 original capacity") is measured separately from electricity generated using capacity which has been added to the station since that date, the electricity which is generated using the station's original capacity;

(b) in any other case, the appropriate percentage of the electricity generated by the station (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 station as at the date of generation of the electricity).

(6) In relation to the remainder of the electricity generated by the generating station, the amount of electricity to be stated in each NIROC is to be determined in accordance with Article 25(4) and (5).

(7) This Article is subject to Article 30.

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

30.—(1) This Article applies to a generating station—

(a) in respect of which a statutory grant was awarded on or before 11th July 2006,

(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), and

(c) which is not a microgenerator.

(2) The operation of Articles 25, 26, 28 and 29 in relation to electricity generated by a generating station to which this Article applies is conditional upon the operator of the station agreeing—

(a) if the grant or any part of it has been paid, to repay to the Department or, as the case may be, the Secretary of State on or before 31st March 2011 so much of the grant as has been paid,

(b) to pay to the Department, or as the case may be, the Secretary of State interest on any amount repayable under sub-paragraph (a) for such period, and at such rate, as may be determined by the Department or, as the case may be, the Secretary of State, and

(c) if the grant or any part of it has not yet been paid, to consent to the cancellation of the award of the grant or part.

(3) Where a generating station to which this Article applies generates electricity at a time when the operator of the station—

(a) has not so agreed, or

(b) having so agreed, has not produced to the Authority evidence of—

(i) the repayment of all amounts due under paragraph (2)(a) or the payment of all amounts of interest due under paragraph (2)(b), and

(ii) where a grant or any part has been cancelled under paragraph (2)(c), the cancellation of that grant or part,

the amount of electricity to be stated in each NIROC issued in respect of that electricity is 1 megawatt hour or the amount determined in accordance with Article 25 or 26 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

31.—(1) In this Order, "banding provision" means a provision of Articles 25 to 29.

(2) The Department may commence a review of the banding provisions in October 2010 and at subsequent four yearly intervals.

(3) The Department 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 Department made the banding provisions;

(b) the charges imposed by network operators on persons, or a class of person, who generate electricity have changed significantly since the Department 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 Northern Ireland, and

(ii) is not listed in the first column of Part 2 of Schedule 2;

(d) there has been a change, since the Department made the banding provisions, in any support, whether financial or otherwise, provided under any enactment other than Articles 52 to 55F of the Energy Order 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 of Schedule 2 are significantly different from the costs of generating electricity in that way to which the Department had regard when making the banding provisions;

(f) there is evidence over a significant period that the provisions of Article 13(3) to (5) are having a material effect on trade in NIROCs to which Article 13(3) and (4) applies;

(g) in an obligation period the number of NIROCs issued by, produced to or likely to be produced to the Authority exceeds or is likely to exceed the total number of NIROCs 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 Article 54B(4) of the Energy Order,

(ii) was not foreseen by the Department when making the banding provisions, and

(iii) has or is likely to have a material effect on the operation of this Order.

(4) In this Article, "network operators" are persons authorised by a licence under Article 10(1) of the Electricity (Northern Ireland) Order 1992 to participate in the transmission of electricity.

PART 7

Issue and Revocation of NIROCs

Issue of NIROCs to generators and suppliers

32.—(1) Subject to paragraphs (2) and (3) and Article 33 (issue of NIROCs to agents), the Authority is to issue a NIROC to the operator of the generating station by which the electricity to which the NIROC relates was generated.

(2) 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 Company

NIROCs are to be issued as set out in paragraph (3).

(3) Where by virtue of the NFFO arrangement the Company is entitled to the electricity, NIROCs are to be issued to licensed suppliers notified to the Authority by the Company as being purchasers of the entitlement to receive NIROCs and to each in such numbers as are appropriate to the entitlement to receive NIROCs which the Company notifies the Authority each has purchased in arrangements made by the Company under Article 38 (subject to the total number of NIROCs available to be issued in respect of the electricity).

Issue of NIROCs to agents

33.—(1) This Article applies to a NIROC which certifies the matters within Articles 54 (4) or (6) of the Energy Order (a "relevant NIROC").

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

(3) The Authority must be notified in writing of the agent's appointment, name and address.

(4) That notification may be provided to the Authority by the operators (or any of them) or the agent.

(5) The Authority must also be notified in writing if the agent's appointment is terminated.

(6) That notification may also be provided to the Authority by the operators (or any of them) or the agent.

(7) Where notice is given under paragraph (5) and received by the Authority, the termination shall take effect (subject to paragraph (8)) 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 NIROCs to the agent.

(8) Notwithstanding paragraph (7), after the expiration of that obligation period the Authority must continue to issue relevant NIROCs to the agent where those NIROCs relate to electricity generated during that obligation period.

(9) Paragraphs (7) and (8) 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.

(10) Where an agent's appointment has been terminated the agent is required to return to the operators any relevant information relating to the generation of electricity by their station.

(11) 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.

General criteria for the issue of NIROCs

34.—(1) Once during each obligation period the person to whom a NIROC is to be issued must confirm to the Authority in writing, whether before or after the generation of the electricity to which the NIROC 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 NIROC certifying the matters within Article 54(3) or (4) of the Energy Order, supplied by a designated electricity supplier to customers in Northern Ireland or in the circumstances referred to in paragraph (6);

(b) in the case of a NIROC certifying the matters within Article 54(5) or (6) of the Energy Order used in a permitted way.

(2) The electricity in respect of which a NIROC is to be issued—

(a) must be generated during a month in which the generating station generating it is accredited under this Order and any conditions to which the accreditation is subject are met;

(b) subject to paragraph (3), must be 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 3 of Schedule 7 to the Electricity Order; and

(c) must not include electricity in respect of which a renewables obligation certificate—

(i) has already been issued under this Order and has not been revoked;

(ii) has already been issued under an Order made under sections 32 to 32M of the Electricity Act (whether or not it has been revoked).

(3) Paragraph (2)(b) does not apply in relation to electricity generated by a generating station the operator of which has agreed with the Authority that estimates may be provided instead of measurements using a meter.

(4) Any information which—

(a) is relevant to the question whether a NIROC is to be issued, and

(b) is requested by or required to be provided to the Authority under Article 45 (provision of information to the Authority),

must be provided in the form and time requested and must be (in the Authority's opinion) accurate and reliable.

(5) 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.

(6) The circumstances referred to in Article 15 and paragraph (1)(a) are—

(a) the electricity in question is sold or intended to be sold by the operator or, as the case may be, by an intermediary acting on his behalf through the SEM Pool;

(b) there exists in relation to each unit of that electricity a relevant arrangement within the meaning of paragraph (7) (and no more than one such arrangement);

(c) the terms of that relevant arrangement shall be materially complied with by the parties thereto.

(7) For the purposes of paragraph (6), a relevant arrangement means an agreement between the operator of the generating station and an electricity supplier which provides that, in relation to the period to which the declaration relates, the electricity supplier—

(a) shall purchase through the SEM Pool not less than an amount of electricity specified in or determined under the agreement being an amount that shall not exceed the amount of electricity sold through the SEM Pool by the operator or, as the case may be, the intermediary in that period;

(b) shall purchase through the SEM Pool a total amount of electricity which is not less than the aggregate of:

(i) the amount of electricity specified in or determined under the agreement; and

(ii) the amount of electricity specified or determined in any other relevant arrangements to which that electricity supplier is a party in respect of that period; and

(c) shall supply to customers in Northern Ireland from the electricity purchased through the SEM Pool a total amount of electricity which is not less than the aggregate of the amounts of electricity referred to in sub-paragraphs (b)(i) and (b)(ii).

(8) In this Article—

(a) "SEM Pool" means the wholesale electricity trading and settlement arrangements established by the Trading and Settlement Code.

(b) "Trading and Settlement Code" means the Single Electricity Market Trading and Settlement Code referred to in the SEM Memorandum as that Code may be amended or replaced from time to time.

(c) The "SEM Memorandum" means the Memorandum of Understanding referred to in Article 2(3) of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007.

(d) "intermediary" in relation to the operator of any generating station means the intermediary body, as defined in the Trading and Settlement Code, appointed in respect of that operator.

Further criteria applicable to NIROCs certifying matters within Article 54(3) and (4) of the Energy Order

35.—(1) Once during each obligation period the person to whom a NIROC certifying the matters within Article 54(3) or (4) of the Energy Order is to be issued must confirm to the Authority in writing, whether before or after the generation of the electricity to which the NIROC relates—

(a) that they are not a person who has been a party to an applicable NFFO arrangement (within the meaning of Article 19);

(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 20); 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 whom the NIROC is to be issued is the Company under Article 32(3).

Further criteria applicable to NIROCs certifying matters within Article 54 (4) and (6) of the Energy Order

36.—(1) Once during each obligation period the person to whom a NIROC certifying the matters within Article 54(4) or (6) is to be issued must confirm to the Authority in writing, whether before or after the generation of the electricity to which the NIROC relates, the matters set out in paragraph (2).

(2) The matters set out in this paragraph are—

(a) that each of the generating stations in relation to which the NIROC 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 NIROC 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 NIROC on their behalf in accordance with Article 33 (issue of NIROCs to agents), and

(ii) agreed that their entitlement to NIROCs 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 52(2) (modifications of this Order in relation to microgenerators in certain circumstances)).

Refusing to issue and revoking NIROCs

37.—(1) The Authority may refuse to issue a NIROC—

(a) where any criterion in Articles 34 to 36 which relates to that NIROC is not (in its opinion) met;

(b) where any information referred to in Article 34(4) or any confirmation provided to it under this Part is not (in its opinion) accurate and reliable.

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

(a) any information referred to in Article 34(4) is false;

(b) any confirmation provided to it under this Part is false; or

(c) a NIROC 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 NIROCs are issued to an agent by virtue of Article 33, that agent,

the Authority must revoke all NIROCs issued in respect of that electricity in that month.

(3) The Authority must also revoke any NIROC which it has issued where it is satisfied that the NIROC is inaccurate.

(4) Where the Authority—

(a) is no longer satisfied that a NIROC 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 NIROC; or

(c) has been unable, due to a failure or refusal by any person (whether inside or outside Northern Ireland) to provide it with any information reasonably requested by it, to check

the accuracy of either a NIROC or any information which it relied upon prior to the issue of a NIROC,

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

(5) In determining whether to revoke a NIROC under paragraph (3) or (4), the Authority may disregard any changes to the amounts for "gross output" (within the meaning of Article 23) and "input electricity" (within the meaning of Article 22) which were used by it to determine a generating station's 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 NIROC it must delete that NIROC 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 NIROC at the time of its revocation.

NIROCs: financial bids

38.—(1) In the case only of NIROC relating to electricity that has been acquired, or is required to be acquired, under a NFFO arrangement, the Company shall make and implement arrangements within such a period as the Authority may direct—

(a) requiring the determination of the person, being a licensed supplier, to whom the NIROC is to be issued to be made by reference to financial bids made in respect of the NIROC with the person making the highest financial bid being the person to whom the NIROC is to be issued; and

(b) requiring that person to make a payment, in accordance with his bid, to the Company.

(2) The Company must conduct itself at all times in relation to the arrangements referred to in paragraph (1) in a manner so as to ensure and satisfy the Authority that it does not show any undue preference or exercise any undue discrimination in relation to any licensed supplier or class of licensed supplier.

(3) On each occasion that a licensed supplier is determined as being a person to whom one or more NIROCs should be issued pursuant to paragraph (1) the Company must promptly notify the Authority as to the licensed supplier so determined and in respect of each such notification, the Company shall, either with the notification or as soon as reasonably practicable after the notification, notify the Authority of the number of NIROCs to be issued to that licensed supplier.

(4) The Authority may give directions to the Company with regard to the making and implementing of arrangements by the Company under this Article and such directions may specify a date or dates by which the Company shall make and implement such arrangements and the Company shall comply with such directions.

PART 8

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

Interpretation

39.—(1) In this Part—

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

(a) amounts received by the Authority under Article 40 (those amounts relating to the renewables obligation in the relevant period);

(b) amounts held by the Authority by virtue of Articles 43(4)(b) and 44(4); and

(c) any interest earnt on those amounts;

"compliant United Kingdom supplier" means a United Kingdom 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 Great Britain authority in connection with the performance of any of its functions conferred by or under sections 32 to 32M of the Electricity Act during a period which in any order made under those articles corresponds to the settlement period;

"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 41 (those amounts relating to the renewables obligation in the relevant period); and

(b) any interest earnt on those amounts;

"late payment period" means the period beginning on the 1st September and concluding on the 31st October in the settlement period;

"NIRO 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 Articles 52 to 55F of the Energy Order during the settlement period;

"non-compliant United Kingdom supplier" means a United Kingdom 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;

"the relevant period" is to be construed in accordance with Article 40(1);

"relevant supplier" means an electricity supplier who was a designated electricity supplier in the relevant period and who at the end of the late payment period had discharged or is treated as if he had discharged the whole or part of his renewables obligation for the relevant period;

"renewables obligation order" is to be construed in accordance with Article 52(4) of the Energy Order;

"the settlement period" is to be construed in accordance with Article 40(1);

"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 under sections 32 to 32M of the Electricity Act which corresponds to the buy-out fund held on that date;

"UK renewables obligation" means—

(a) the renewables obligation imposed by Article 5 of this Order; or

(b) a renewables obligation imposed by a renewables obligation order made under section 32 of the Electricity Act; and

"United Kingdom supplier" means

(a) a designated electricity supplier; and

(b) any electricity supplier on which a UK renewables obligation is imposed under a renewables obligation order made under section 32 of the Electricity Act.

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

supplier) as references to the period which corresponds to the late payment, 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 40(1) or 41(6) is to be rounded to the nearest penny, with any half of a penny being rounded upwards.

Payments to discharge the renewables obligation

40.—(1) A designated electricity supplier may (in whole or in part) discharge his 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 £X x (Y – Z) where—

(a) X is the sum which corresponds to a renewables obligation certificate by virtue of paragraph (4);

(b) Y is the number of renewables obligation certificates that the designated electricity supplier, if he makes no payment under paragraph (1), would have to produce to the Authority in order for him to discharge his renewables obligation for the relevant period in full; and

(c) Z is the number of renewables obligation certificates that he has actually produced to the Authority for that period (or, where he has not produced any at all, zero).

(3) Where a designated electricity supplier makes a payment to the Authority which is less than the amount calculated under paragraph (2), his renewables obligation for the relevant period will be discharged by that payment to the extent of the appropriate number of renewables obligation certificates, which is the quotient obtained by dividing the payment made by the sum which corresponds to a renewables obligation certificate by virtue of paragraph (4).

(4) The sum which corresponds to a renewables obligation certificate ("the buy-out price") is—

(a) for the relevant period commencing on 1st April 2009, £37.19; 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 on 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

41.—(1) Where a designated electricity supplier fails (in whole or in part) to discharge his renewables obligation for the relevant period before the 1st September in the settlement period, the Authority must notify him of the extent of his 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 40(2) less any amount that the designated electricity supplier has actually paid to the Authority under Article 40.

(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 shall 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 his 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), he shall be treated as having discharged his renewables obligation for the relevant period.

(7) The Authority must not, during the late payment period, impose a penalty under Article 45 of the Energy Order on any supplier in respect of that supplier's failure to discharge his renewables obligation in full before the 1st September in the settlement period.

Dealing with the buy-out fund: payments into the Consolidated Fund and to the Great Britain authority

42.—(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 NIRO costs bear to the total UK buy-out fund; and

(b) to the Great Britain authority 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.

(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 Great Britain authority in the same ratio as the NIRO costs bear to the GBRO 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 United Kingdom suppliers under and in accordance with Article 44 by the 1st November in the settlement period.

Dealing with the late payment fund: payments into the Consolidated Fund and to the Great Britain authority

43.—(1) Subject to paragraph (2), where the buy-out fund has been paid into the Consolidated Fund and to the Great Britain authority under Article 42(2), before the 1st January of that 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 42(2) and the amount that would have been paid into it under Article 42(1) had the aggregate of the amounts to be paid by the Authority under Article 42(1) not exceeded the buy-out fund; and

(b) to the Great Britain authority an amount which is equal to the difference between the amount that was paid to it under Article 42(2) and the amount that would have been paid to it under Article 42(1) had the aggregate of the amounts to be paid by the authority under Article 42(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 that 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 Great Britain authority in the same ratio as the NIRO costs bear to the GBRO 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 must 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 United Kingdom suppliers under and in accordance with Article 44 by the 1st January in the settlement period;

(b) hold £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 United Kingdom suppliers

44.—(1) Each United Kingdom supplier must be paid a proportion of the amount (if any) that the Authority is required to pay to United Kingdom suppliers by virtue of Article 42(4) or 43(4)(a) by the dates in the settlement period specified in those Articles.

(2) The proportion referred to in paragraph (1) is A ÷ B where—

(a) A is the number of renewables obligation certificates presented by the United Kingdom supplier to the Authority or the Great Britain 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 renewables obligation certificates presented by United Kingdom suppliers to the Authority and the Great Britain authority in order to discharge (in whole or in part) any UK renewables obligation 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 must 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 shall 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.

PART 9

Provision of information, functions of the Authority and modifications of this Order in relation to microgenerators in certain circumstances

Provisions of information to the Authority

45.—(1) The Authority may, be the date (if any) specified by it, require—

(a) 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, his renewables obligation;

(b) a person to provide it with information which in its opinion is relevant to the question whether a NIROC is, or was or will in future be, required to be issued to the person.

(2) Without prejudice to paragraph (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 NIROC has been or may be issued;

(b) supplies, distributes or transmits such electricity; or

(c) buys or sells (as a trader) such electricity or NIROCs,

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

(3) Without prejudice to paragraphs (1) and (2), for the purposes of determining the 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 amount of input electricity used by the station in the relevant month, and

(b) the gross output 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).

(4) Nothing in paragraph (3) 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.

(5) Without prejudice to paragraphs (1) and (2), each designated electricity supplier must provide the Authority with—

(a) estimates of the amount of electricity he has supplied to customers in Northern Ireland during each month of an obligation period by no later than 1st June following that period;

(b) figures showing the amount of electricity he has actually supplied to customers in Northern Ireland during each month of an obligation period by no later than 1st July following that period; and

(c) an estimate of the number of renewables obligation certificates he believes he would be required to produce to the Authority in order to discharge his renewables obligation for an obligation period if he did not discharge his renewables obligation for that period (in whole or in part) by some other means by no later than 1st July following that period.

(6) When giving the information referred to in paragraph (5)(a) and (b), a designated electricity supplier must have regard to any sales figures relating to the electricity in respect of which he is giving that information which he has provided (or intends to provide) to the Department of Energy and Climate Change for publication in "Energy Trends".

(7) Without prejudice to paragraphs (1) and (2), for the purposes of determining whether a NIROC certifying the matters within Article 54(4) or (6) of the Energy Order should be issued the person to whom any such NIROC would be issued must provide the Authority with—

(a) a figure representing the amount of electricity in respect of which NIROCs should (in that person's opinion) be issued; and

(b) the data on which that person relied in arriving at that figure.

(8) Where a designated electricity supplier receives a payment other than under Article 42(4) or 43(4)(a) in relation to a failure by a Great Britain designated electricity supplier to discharge its renewables obligation imposed in accordance with section 32(1) of the Electricity Act, the designated electricity supplier receiving the payment shall notify the Authority, immediately after receiving the payment, of the amount he received and the reason for the payment.

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

(10) In this Article "input electricity" and "gross output", in relation to a generating station, have the same meaning as they have in Articles 22 and 23 (calculating a generating station's renewable output).

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

46.—(1) This Article applies to a generating station—

(a) which generates electricity (wholly or partly) from biomass, and

(b) which is not a microgenerator.

(2) In relation to each consignment of biomass used in a generating station to which this Article applies, the operator of the station must by the 31st May immediately following the obligation period during which the biomass is used ("the relevant date"), provide the Authority with the information specified in paragraph (3).

(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 (for example, whether it was composed of wood);

(b) where the biomass can take different forms (for example, wood can take a variety of forms, depending on whether and how it has been processed and what it is, is to be or has been used for), the form of the biomass;

(c) where the biomass was solid, its mass;

(d) where the biomass was fluid, its volume when measured at 25 degrees Celsius and 0.1 megapascals;

(e) whether the biomass was a by-product of a process;

(f) whether the biomass was waste;

(g) where the biomass was plant matter or derived from plant matter, the country where the plant matter was grown;

(h) where the information specified in sub-paragraph (g) is not known or the biomass was not plant matter or derived from plant matter, the country from which the operator obtained the biomass;

(i) whether any of the consignment was an energy crop or derived from an energy crop and, if so—

(i) the proportion of the consignment which was or was derived from the energy crop, and

(ii) the type of energy crop in question;

(j) whether the biomass or any matter from which it was derived was certified under an environmental quality assurance scheme and, if so, the name of the scheme; and

(k) where the biomass was plant matter or derived from plant matter, the use to which the land on which the plant matter was grown has been put since 30th November 2005.

(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 the information specified in paragraph (3) by the relevant date, the Authority—

(a) may in relation to any NIROCs to which the operator would otherwise be entitled, postpone (subject to sub-paragraph (b)) the issue of those NIROCs (up to the specified number) until such time as the information is provided, and

(b) must in relation to any such NIROCs refuse the issue of those NIROCs (up to the specified number) if that information is not provided by the 31st August immediately following the relevant date.

(5) For the purposes of paragraph (4), the specified number is the number of NIROCs which the Authority has or estimates that it has or, but for this Article, estimates that it would have issued in respect of the electricity generated by the biomass in relation to which the information specified in paragraph (3) should have been provided.

(6) In this Article, "environmental quality assurance scheme" means a voluntary scheme which establishes environmental or social standards in relation to the production of biomass or matter from which a biomass fuel is derived.

Provision of information to the Department

47. Any information provided to the Authority under Article 45(5) must be provided to the Department at the same time.

Exchange of information with the Great Britain authority

48.—(1) The Authority must, as soon as reasonably practicable after the specified day following an obligation period, notify the Great Britain authority of—

(a) the details of each GBROC 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 GBROCs 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 Great Britain authority as to the NIROC identifiers of NIROCs produced to the Great Britain authority by Great Britain designated electricity suppliers under GBRO Orders, inform the Great Britain authority of—

(a) the NIROC identifier of any NIROC so notified which it has revoked under Article 37 and whether it has issued a replacement NIROC in respect of any NIROC (unless that replacement NIROC has itself been revoked);

(b) the NIROC identifier of any NIROC so notified that has also been produced to the Authority by a designated electricity supplier under Article 5(2) and the date on which it was also produced.

(3) The Authority may conduct enquiries or investigations in respect of whether any electricity which is or may be the subject of a GBROC issued under any provision included in a GBRO Order by virtue of section 32B(4) and (6) of the Electricity Act has been supplied to customers in Northern Ireland and if, as a result of any such enquiry or investigation, the Authority is not satisfied that any such electricity has been so supplied it shall notify the Great Britain authority accordingly.

(4) The Authority must as soon as reasonably practicable after the specified day, following an obligation period, notify the Great Britain authority as to the number of renewables obligation certificates produced to the Authority in respect of that obligation period.

Functions of the Authority

49.—(1) In addition to the functions assigned to it elsewhere in this Order, the Authority shall have the following specific functions—

(a) keeping, maintaining and making available to the public a list of generating stations granted preliminary accreditation and accreditation in accordance with Article 50, together with any applicable conditions attached to the preliminary accreditation or accreditation;

(b) keeping and maintaining a list of NIROCs which have been revoked and making such list available to the public;

(c) calculating and publishing before the start of each obligation period (with the exception of the first obligation period to which this Order relates) the sum which corresponds to a NIROC for that period by virtue of Article 40(4);

(d) publishing from time to time during an obligation period the total NIROC claim for that period;

(e) by the 1st April each year publishing a report in relation to the obligation period ending on the 31st March in the previous calendar year ("the relevant period"), such report to include details (or, in the case of paragraph (v), a summary) of—

(i) the compliance of each designated electricity supplier with his renewables obligation for the relevant period, including the extent to which that obligation was met by the production renewables obligation certificates pursuant to Article 5(2), payments made under Article 40 or the production of GBROCs pursuant to Article 13(1) or treated as met by payments made under Article 41;

(ii) the sums received by each United Kingdom supplier under Article 44 in relation to the relevant period;

(iii) the number of NIROCs issued by the Authority, the number of NIROCs accepted by it under Article 5(2), the number of GBROCs accepted by it under Article 13(1) and the number of NIROCs issued but not yet deleted from the Register in respect of the relevant period;

(iv) the number of NIROCs issued by the Authority in relation to the relevant period categorized by reference to the ways in which the electricity in respect of which the NIROCs were issued was generated;

(v) the outcome of any enquiries or investigations conducted by the Authority pursuant to sub-paragraph (f) in relation to the relevant period; and

(vi) any other matters which the Authority considers relevant in relation to the relevant period;

(f) 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) and 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 Northern Ireland;

(iii) the transfer and holding of NIROCs (including the transfer and holding of NIROCs issued to agents by virtue of Article 33);

(iv) the effect of such matters on the making and allocation of payments under Articles 40, 41, and 44; and

(v) the effect of the renewables obligation on the activities and operations of designated electricity suppliers and the operators of generating stations;

(g) publishing at its discretion reports of enquiries or investigations conducted by the Authority pursuant to sub-paragraph (f); and

(h) the provision of such information to the Great Britain authority as the Authority considers may be relevant to the exercise of the Great Britain authority's functions under any GBRO Order.

(2) In this Article "total NIROC claim" means the total number of NIROCs which have been claimed in respect of a particular obligation period, less—

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

(b) the number of NIROCs which the Authority has, in respect of that obligation period, decided not to issue or refused to issue under Article 37 or 46(4).

Preliminary accreditation and accreditation of generating stations

50.—(1) Paragraphs (2) to (10) shall apply to the granting and withdrawing of preliminary accreditation and accreditation of generating stations by the Authority, and paragraphs (3) to (5) are subject top paragraph (2).

(2) The Authority must not grant accreditation or preliminary accreditation to a generating station under this Article—

(a) if it cannot issue NIROCs in respect of electricity generated by that station by virtue of Article 17 (excluding generating stations), or

(b) if, in its opinion, the station is unlikely to generate electricity in respect of which NIROCs may be issued.

(3) Where a generating station in respect of which—

(a) consent under Article 39 of the Electricity Order has been obtained; or

(b) planning permission under the Planning (Northern Ireland) Order 1991(**20**) has been granted,

has not yet been commissioned, the Authority may, upon the application of the person who proposes to construct or operate the generating station, grant the station preliminary accreditation.

(4) Where a generating station has been commissioned, the Authority may, upon the application of its operator (or, where NIROCs relating to electricity generated by that generating station are to be issued to an agent by virtue of Article 33, that agent), grant the station accreditation.

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

(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.

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

(7) Where any of the circumstances mentioned in paragraph (8) apply in relation to preliminary accreditation or an accreditation which the Authority has granted, (whether or not under this Article) 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 conditions attached to the preliminary accreditation or accreditation under paragraph (6);

(c) attach conditions to the preliminary accreditation or accreditation.

(8) The circumstances referred to in paragraph (7) are as follows—

(**20**) S.I. 1991 No. 1220 (N.I.11)

(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 was granted 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 or accreditation was granted such that, had the application for preliminary accreditation or accreditation been made after the change it would not have been granted.

(9) 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.

(10) In providing written notification under paragraph (9), the Authority must specify the date on which the grant or withdrawal of preliminary accreditation or accreditation is to take effect and, where applicable, the date on which any conditions attached to the preliminary accreditation or accreditation are to take effect.

(11) In paragraph (3), the reference to the person who proposes to construct the generating station shall include a person who arranges for the construction of the generating station.

NIROC Register

51.—(1) The Authority must establish and maintain a register of NIROCs ("the Register") in accordance with Schedule 3 which shall have effect.

(2) A NIROC is issued for the purpose of this Order at the point at which its particulars (within the meaning of Schedule 3) are entered in the Register by the Authority.

(3) Without prejudice to the foregoing provisions of this Article and Schedule 3, the Authority must ensure that the Register contains, by way of entries made in it——

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

(4) Only the registered holder of a NIROC may produce that NIROC to the Authority under Article 5.

Modification of this Order in relation to microgenerators in certain circumstances

52.—(1) This Article applies to generating stations which are microgenerators.

(2) The operator of a generating station to which this Article applies or, where NIROCs relating to generating stations to which this Article applies are to be issued to an agent by virtue of Article 33, that agent (and not the operators of the generating stations in question) may—

(a) where NIROCs 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 NIROCs 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.

(3) Paragraph (4) applies—

(a) where an operator or, as the case may be, agent has given notice as specified in paragraph (2)(a) for the remainder of the obligation period during which the notice was given and subsequent obligation periods; and

(b) where an operator or, as the case may be, agent has given notice as specified in paragraph 2(b), for the relevant obligation period and subsequent obligation periods.

(4) Where this paragraph applies, the reference to "month" in each place where it occurs in Articles 13, 21, 22, 23, 34, 35, 37, 45 and Schedule 3 is to be taken to be a reference to "obligation period", subject to the following exceptions—

(a) In Articles 22(2)(b), and 45(3) the reference to "the second month" is to remain unchanged;

(b) in paragraph 3(b)(i) of Schedule 3 the words "the month and year" is to be replaced by "the obligation period".

(5) An operator or, as the case may be, agent who has given notice under paragraph (2) may—

(a) if 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 notice was given under paragraph (2)(b), not less than one month before the beginning of any obligation period following the relevant obligation period,

by notice in writing to the Authority, withdraw the notice given under paragraph (2).

(6) Where an operator or, as the case may be, agent 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, transitional and savings

53.—(1) Subject to paragraphs (2) to (4), the following Orders are hereby revoked—

(a) The Renewables Obligation Order (Northern Ireland) 2007(**21**)("the 2007 Order"); and

(b) The Renewables Obligation (Amendment) Order (Northern Ireland) 2007(**22**).

(2) The 2007 Order shall continue to apply in relation to the issue and revocation of NIROCs under it in respect of electricity generated before 1st April 2009, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to such issue or revocation;

(3) The 2007 Order shall continue to apply in relation to—

(a) the issue and revocation of NIROCs under it in respect of electricity generated before 1st April 2009, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to such issue on revocation;

(b) any obligations or requirements imposed by it on an electricity supplier, an operator of a generating station or some other person in respect of the obligation period ending on 31st March 2009, and anything which falls to be done or determined (whether by the supplier, the generator or some other person) in relation to any such obligations and requirements;

(**21**) S.R. 2007 No. 104
(**22**) S.R. 2007 No. 440

(c) any obligations and functions of the Authority in respect of that obligation period, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to it.

(4) Without prejudice to the generality of the foregoing—

(a) Article 28 of the 2007 Order shall continue to apply so as to enable the Authority to request information in respect of electricity generated in the obligation period ending on 31st March 2009;

(b) Schedule 2 to the 2007 Order is to continue to apply in relation to that obligation period.

(5) For the purpose of Article 13(2) of this Order—

(a) NIROCs issued under the 2007 Order in respect of electricity supplied in the obligation period ending on 31st March 2009; and,

(b) GBROCs issued in respect of electricity supplied in the period corresponding to that obligation period

may be produced to the Authority by a designated supplier in discharge of up to 25 per cent of his renewables obligation in respect of the obligation period ending on 31st March 2010.

(6) In this Article, "obligation period" (except the reference to the obligation period ending on 31st March 2010 in paragraph (4) and "NIROCs" have the same meaning as in the 2007 Order.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 27th March 2009.

L.S.

Jenny Pyper
A senior officer of the
Department of Enterprise, Trade and Investment

SCHEDULE 1

Articles 6, 7, 9, 10 and 12

CALCULATION OF THE OBLIGATION

Obligation period	*Number of renewables obligation certificates per megawatt hour of electricity supplied in Great Britain*	*Number of renewables obligation certificates per megawatt hour of electricity supplied in Northern Ireland*
1st April 2009 to 31st March 2010	0.097	0.035
1st April 2010 to 31st March 2011	0.104	0.040
1st April 2011 to 31st March 2012	0.114	0.050
1st April 2012 to 31st March 2013	0.124	0.063
1st April 2013 to 31st March 2014	0.134	0.063
1st April 2014 to 31st March 2015	0.144	0.063
1st April 2015 to 31st March 2016	0.154	0.063
Each subsequent period of twelve months ending with the period of twelve months ending on 31st March 2027	0.154	0.063

SCHEDULE 2

Articles 25, 28, 29 and 31

ELECTRICITY TO BE STATED IN NIROCs

PART 1

INTERPRETATION

1.—(1) In this Schedule—

"AD" means electricity generated from gas formed by the anaerobic digestion of material which is neither sewage nor material in a landfill;

"advanced gasification" means electricity generated from a gaseous fuel which is produced from waste or biomass by means of gasification, and has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the generating station of at least 4 megajoules per metre cubed;

"advanced pyrolysis" means electricity generated from a liquid or gaseous fuel which is produced from waste or biomass by means of pyrolysis, and

(a) in the case of a gaseous fuel, has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the generating station of at least 4 megajoules per metre cubed, and

(b) in the case of a liquid fuel, has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the generating station of at least 10 megajoules per kilogram;

"co-firing of biomass" means electricity generated from regular biomass in a month in which the generating station generates electricity partly from fossil fuel and partly from renewable sources;

"co-firing of biomass with CHP" means electricity generated from regular biomass by a qualifying combined heat and power generating station in a month in which it generates electricity partly from fossil fuel and partly from renewable sources, and where the fossil fuel and regular biomass have been burned in separate boilers or engines.

"co-firing of energy crops" means electricity generated from energy crops in a month in which the generating station generates electricity partly from fossil fuel and partly from renewable sources;

"co-firing of energy crops with CHP" means electricity generated from energy crops by a qualifying combined heat and power generating station in a month in which it generates electricity partly from fossil fuel and partly from renewable sources, and where the fossil fuel and energy crops have been burned in separate boilers or engines.

"dedicated biomass" means electricity generated from regular biomass in a month in which the generating station generates electricity only from regular biomass or only from biomass;

"dedicated energy crops" means electricity generated from energy crops in a month in which the generating station generates electricity only from energy crops or only from biomass;

"electricity generated from landfill gas" means electricity generated from gas formed by the digestion of material in a landfill;

"electricity generated from sewage gas" means electricity generated from gas formed by the anaerobic digestion of sewage (including sewage which has been treated or processed);

"energy from waste with CHP" means electricity generated from the combustion of waste (other than a fuel produced by means of anaerobic digestion, gasification or pyrolysis) in a qualifying combined heat and power generating 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;

"hydroelectric" means electricity generated by a hydro generating station;

"offshore wind" means electricity generated from wind by a generating station that is offshore, and a generating station is offshore if—

(a) its turbines are situated wholly in offshore waters, and

(b) it is not connected to dry land by means of a permanent structure which provides access to land above the mean low water mark;

"onshore wind" means electricity generated from wind by a generating station that is not offshore;

"solar photovoltaic" means electricity generated from the direct conversion of sunlight into electricity;

"standard gasification" means electricity generated from a gaseous fuel which is produced from waste or biomass by means of gasification, and has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the generating station which is at least 2 megajoules per metre cubed but is less than 4 megajoules per metre cubed;

"standard pyrolysis" means electricity generated from a gaseous fuel which is produced from waste or biomass by means of pyrolysis, and has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the generating station which is at least 2 megajoules per metre cubed but is less than 4 megajoules per metre cubed;

"tidal impoundment – tidal barrage" 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 barrier is connected to both banks of a river and the generating station has a declared net capacity of less than 1 gigawatt;

"tidal impoundment – tidal lagoon" 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 barrier is not a tidal barrage and the generating 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.

"wave" means electricity generated from the capture of 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; and

(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.

Articles 25(4) and (5) and 31(3)

PART 2

AMOUNT OF ELECTRICITY TO BE STATED IN NIROCs GENERALLY

Generation type	*Amount of electricity to be stated in a NIROC*
Electricity generated from landfill gas	4 megawatt hours
Electricity generated from sewage gas	2 megawatt hours
Co-firing of biomass	
Onshore wind	
Hydro-electric	
Co-firing of energy crops	
Energy from waste with CHP	1 megawatt hour
Geopressure	
Co-firing of biomass with CHP	
Standard gasification	
Standard pyrolysis	
Offshore wind	
Dedicated biomass	$^{2}/_{3}$ megawatt hour
Co-firing of energy crops with CHP	
Wave	
Tidal-stream	
Advanced gasification	

Generation type	*Amount of electricity to be stated in a NIROC*
Advanced pyrolysis	
AD	
Dedicated energy crops	½ megawatt hour
Dedicated biomass with CHP	
Dedicated energy crops with CHP	
Solar photovoltaic	
Geothermal	
Tidal impoundment – tidal barrage	
Tidal impoundment – tidal lagoon	

Article 28(3)

PART 3

AMOUNT OF ELECTRICITY TO BE STATED IN NIROCs WHERE ARTICLE 28(3) APPLIES

Generation type	*Amount of electricity to be stated in a NIROC*
Electricity generated from landfill gas	1 megawatt hour
Electricity generated from sewage gas	
Offshore wind	
Wave	
Solar photovoltaic	

Article 28(5) and (6) and 29

PART 4

AMOUNT OF ELECTRICITY TO BE STATED IN NIROCs WHERE ARTICLE 28(5) OR ARTICLE 29(4) APPLIES

Generation type	*Amount of electricity to be stated in a NIROC*
Electricity generated from landfill gas	1 megawatt hour
Electricity generated from sewage gas	

SCHEDULE 3

Article 51

The NIROC Register

1. The Authority must maintain the Register referred to in Article 51 (which may be in electronic form) at one or more of its premises.

2. The Register must identify whether or not a NIROC subsists and details of its particulars.

3. Particulars of a NIROC comprise—

(a) the name of the person to whom the Authority issues the NIROC 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 NIROC ("the NIROC 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 NIROC certifies the matters within Article 54(4) or (6) of the Energy Order, the location of the agent to whom, by virtue of Article 33, the NIROC was issued;

(iii) a description of that generating station or, where the NIROC certifies the matters within Article 54(4) or (6) of the Energy Order, the generating stations to which the NIROC relates, including reference to the renewable source or sources used by it or them to generate electricity;

(iv) the date of issue of the NIROC; and

(v) the number given to the NIROC by the Authority

4. A person may only be the registered holder of a NIROC or have an entry made and maintained in respect of them under Article 51(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 NIROCs under Article 5(2) or in respect of requests for amendments to be made to the Register as provided for in this Schedule, details of those persons.

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 thereof.

6. The Authority must delete from the Register—

(a) any NIROC which has been revoked by it;

(b) any NIROC which has been produced to it under Article 5(2);

(c) any NIROC which is no longer eligible to be produced to it under Article 5(2);

(d) any NIROC which it is asked to delete from the Register by the registered holder of the NIROC; or

(e) any NIROC which has been according to the Great Britain authority produced to the Great Britain authority by a Great Britain designated supplier under a GBRO Order;

and where it is so deleted, it cannot thereafter be produced as the evidence or part of the evidence required under Article 5(2).

7. Where the registered holder of a NIROC and a person whom the holder wishes to be the registered holder of it require the Register be amended, by substituting for the name of the registered

holder the name of the other person ("the substitute"), (who must be a person whose name is included on the list referred to in Article 51(3)(b)—

(a) the registered holder and the substitute must each submit to the Authority in writing requests which are identical in all material respects; and

(b) where the requirements of sub-paragraph (a) 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 NIROC recorded in the Register to show the substitute as the registered holder.

8. Where the Authority receives requests under paragraph 7(a) it must inform both the registered holder of the NIROC 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 NIROC is issued under this Order, or

(b) a substitute is recorded as the registered holder of a NIROC 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 NIROC until such time as the particulars of the NIROC recorded in the Register identify the substitute as such.

11. The Register may be amended by a decision of the Authority—

(i) where the Authority is satisfied that an entry in the Register has been obtained by fraud;

(ii) where a decision of a Court of competent jurisdiction or the operation of law requires the amendment of the Register;

(iii) 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 51(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 51(3)(b).

13. Where any person considers that an entry maintained in respect of them under Article 51(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. "Banking day" means a day on which banks are generally open in the City of London excluding Saturdays or Sundays.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order imposes an obligation ("the renewables obligation") on all electricity suppliers, licensed under the Electricity Order (Northern Ireland) 1992 ("the Electricity Order") who supply electricity in Northern Ireland, to produce a certain number of renewables obligation certificates in respect of each megawatt hour of electricity that each supplies to customers in Northern Ireland during a specified period known as an obligation period (Article 5). 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 Order provides for the renewables obligation to be administered by the Northern Ireland Authority for Utility Regulation("the Authority") who are responsible for issuing renewables obligation certificates (NIROCs) to renewable electricity generators 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 40-41).

Part 1 sets out the interpretation provisions for the Order, and defines biomass and waste. In particular, Article 3 specifies, as provided for in Article 55F of the Energy (Northern Ireland) Order 2003 ("the Energy Order"), that waste constitutes a renewable source if not more than 90% of it is, or is derived from, fossil fuel. 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 4 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.

Part 2 sets out how the renewables obligation is calculated and what a supplier needs to do to meet their obligation. In particular, Articles 6 to 10 set out the calculations that the Department and the Secretary of State for Energy in the UK must undertake before the start of each obligation period (apart from the 2009/10 obligation period) to determine the total UK renewables obligation for that period.

Article 11 sets out the circumstances where each calculation is to be used to determine the total obligation for electricity suppliers in Northern Ireland.

Article 12 determines the number of renewables obligation certificates to be produced by individual electricity suppliers to discharge their renewables obligation. Paragraph (4) of this Article requires the Department to publish by the 1st October preceding an 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 he supplies to customers in Northern Ireland.

Article 13 provides for an electricity supplier to discharge his renewables obligation by the production to the Authority of a renewables obligation certificate issued in Great Britain. This Article also sets out the co-firing cap i.e. licensed suppliers are not able to meet more than a specified proportion of their obligation by presenting renewables obligation certificates issued in respect of electricity generated by a generating station fuelled or driven partly by renewable sources and partly by fossil fuel.

In Part 3, Article 15 sets out those conditions that need to be met for electricity to be regarded as having been supplied to customers in Northern Ireland for the purposes of Article 54(3) and (4) of

the Energy Order. Article 16 sets out when electricity is to be regarded as being used in a permitted way for the purposes of Article 54(5) and (6) of the Energy Order.

In Part 4, Articles 17 to 21 set out circumstances in which NIROCs are not to be issued.

In Part 5, Articles 22 and 23 set out how the number of NIROCs relating to a generating station's renewable output is to be calculated. Article 24 makes specific modifications for qualifying combined heat and power generating stations.

In Part 6, Articles 25 to 29 are the "banding provisions", which govern the amount of electricity in respect of which each NIROC is to be issued. Article 25 contains the general rule, which is that the amount of electricity in respect of which a NIROC is to be issued depends upon the way in which the electricity was generated, and is set out in Part 2 of Schedule 2. There are special provisions governing NIROCs issued to qualifying combined heat and power generating stations (Article 26), microgenerators (Article 27), generating stations which were accredited as at 11th July 2006 (Article 28), and generating stations which were accredited or held preliminary accreditation as at 31st March 2009 (Article 29).

Article 30 sets out conditions which must be satisfied before the "banding provisions" apply to certain generating stations in respect of which a statutory grant has been awarded. Article 31 provides for the Department to review the banding provisions at four yearly intervals, with the first review commencing in October 2010. A review may also occur at any other time if any of the circumstances set out in Article 31(3) arise.

In Part 7, Articles 32 to 36 provide for the issue of NIROCs – that is to say, renewables obligation certificates issued under this Order – by the Authority. Article 37 provides for the revocation of NIROCs in certain circumstances. Article 38 makes provision for the issue of NIROCs in respect of electricity generated under contracts under the Non-Fossil Fuel Obligations (NFFO).

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 42 and 43 require the Authority to make payments from those funds into the consolidated fund and to the Great Britain authority to pay for the costs of administering the renewables obligation. Once these payments have been made, the remainder of the money in the funds is paid to UK suppliers, who have discharged their renewables obligation (in whole or in part) by presenting renewables obligation certificates, in accordance with Article 44. The exception to this occurs where £50,000 or less is all that is held in the late payment fund, in which case that amount will be retained by the Authority and will be paid out in the following obligation period (Article 43).

Part 9 makes provision concerning information which is to be provided to the Authority (Articles 45 and 46), which is to be provided to the Department (Article 47), and which is to be exchanged with the Great Britain authority (Article 48). 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 (Article 49).

Article 50 provides for the preliminary accreditation and accreditation of generating stations. In order to be eligible to claim NIROCs in respect of electricity generated from eligible renewable sources, a generating station must have obtained accreditation from the Authority.

Article 52 modifies the provisions of specific Articles in this Order to enable a microgenerator to be able to claim NIROCs on an annual rather than a monthly basis.

Article 53 revokes the Renewables Obligation Order (NI) 2007 ("the 2006 Order") and the Renewables Obligation (Amendment)Order (NI) 2007. The provisions of the 2007 Order are saved in respect of all outstanding obligations or requirements imposed by it.

A regulatory impact assessment is available from Sustainable Energy Branch, Department of Enterprise, Trade and Investment, Netherleigh, Massey Avenue, Belfast, BT4 2JP.

The 2007 Order revoked and re-enacted the Renewables Obligation Order (NI) 2006 (S.R. 2006 No.56) ("the 2006 Order"). The 2006 Order revoked and re-enacted the Renewables Obligation Order (Northern Ireland) 2005 ("the 2005 Order) which gave effect to Article 3.1 of the European Directive on the promotion of electricity produced from renewable energy sources in the internal market (Directive 2001/77/EC) O.J. No. L283/33 27.10.2001. A transposition note setting out how the main elements of this Directive have been transposed into United Kingdom law is available from the Renewables Financial Incentives Team, Department of Energy and Climate Change 1 Victoria Street, London, SW1H 0ET. This Order does not raise any new transposition issues. Copies have been placed in the libraries of both Houses of Parliament, Westminster.