
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 38

Renewables Obligation Order (Northern Ireland) 2005

Citation and commencement

1. This Order may be cited as the Renewables Obligation Order (Northern Ireland) 2005 and shall come into operation on 1st April 2005.

Interpretation

2.—(1) In this Order –

“advanced conversion technologies” means gasification, pyrolysis or anaerobic digestion, or any combination thereof;

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

“banking day” means a day on which banks are generally open in the City of London excluding Saturdays or Sundays;

“biomass” means fuel used in a generating station of which at least 98 per cent of the energy content (measured over a period of one month) is derived from plant or animal matter or substances derived directly or indirectly therefrom (whether or not such matter or substances are waste) and includes agricultural, forestry or wood wastes or residues, sewage and energy crops (provided that such plant or animal matter is not or is not derived directly or indirectly from fossil fuel);

“commissioned” means the completion of a process of such procedures and tests as from time to time constitute usual industry standards and practices for commissioning a generating station in order to demonstrate that the generating station is capable of commercial operation;

“the Company” means Northern Ireland Electricity plc;

“connected person”, in relation to an owner or operator of a generating station, or a party to a qualifying arrangement, means a person connected to him within the meaning of section 839 of the Income and Corporation Taxes Act 1988(1);

“declared net capacity” means the highest generation of electricity (calculated by adding together the highest generation of electricity at the main terminals of each alternator and dynamo) which, on the assumption that the source of power is available uninterruptedly, can be maintained indefinitely without causing damage to the plant less so much of that electricity as is consumed by the plant;

“designated electricity supplier”; except where it appears for the second time in the definition of “renewables obligation” and where it appears in the definition of “Great Britain designated supplier”, means any electricity supplier supplying electricity in Northern Ireland;

“the Electricity Act” means the Electricity Act 1989(2);

(1) 1988 c. 1; section 839 was amended by the Finance Act 1995 (c. 4), section 74 and Schedule 17, paragraph 20(b)

(2) 1989 c. 29

“eligible GBROC” means a GBROC that satisfies the conditions for eligibility set out in Schedule 1;

“eligible renewable sources” has the meaning given to it in Article 11;

“energy content” of a fuel means the gross calorific value of that fuel (as expressed by weight or by volume) multiplied by the weight or volume of that fuel;

“energy crops” means a plant crop planted after 31st December 1989 and grown primarily for the purpose of being used as fuel;

“the Energy Order” means the Energy (Northern Ireland) Order 2003;

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

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

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

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

- (i) the month and year during which the electricity was generated;
- (ii) the location of the generating station;
- (iii) a description of the generating station including reference to the source or sources of fuel used to generate electricity by that generating station;
- (iv) the date of issue of the GBROC; and
- (v) a number allocated to a GBROC by the Great Britain authority in accordance with a GBRO Order.

“Great Britain authority” means the Gas and Electricity Markets Authority;

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

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

“late payment period” in relation to an obligation period, means the period from the specified day in relation to that obligation period to the following 30th November;

“licensed supplier” means an electricity supplier or an electricity supplier within the meaning of Part I of the Electricity Act;

“micro hydro generating station” means a hydro generating station which:

- (a) has a declared net capacity of 1.25 megawatts or less;
- (b) has always been in private ownership and operation; and
- (c) has never generated electricity under an arrangement which has ever been a qualifying arrangement;

“NIROC” means a certificate issued by the Authority under Article 54 of the Energy Order and pursuant to this Order;

“NIROC Identifier” has the meaning given to it in paragraph 2 of Schedule 3;

“NIROC sequence number” has the meaning given to it in Article 4(9);

“Non-Fossil Fuel Order” means (except where it is used in Schedule 1) the Electricity (Non-Fossil Fuel Sources) Order (Northern Ireland) 1994⁽³⁾; or the Electricity (Non-Fossil Fuel Sources) Order (Northern Ireland) 1996⁽⁴⁾;

“obligation period” means any of the periods referred to in the first column of Schedule 2;

“particulars”, in relation to a NIROC, has the meaning given to it in paragraph 2 of Schedule 3;

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

“pyrolysis” means the thermal degradation of a substance in the absence of any oxidising agent (other than that which forms part of the substance itself) to produce char and one or both of gas and liquid;

“qualifying arrangement” means (except where used in paragraphs 15 and 16 of Schedule 1) an arrangement which was originally made pursuant to a Non-Fossil Fuel Order (and includes any replacement of such an arrangement where that replacement was made pursuant to an order made under Article 57 of the Energy Order);

“qualifying certificate” means a certificate issued pursuant to this Order that relates to electricity generated from eligible renewable sources, or an eligible GBROC;

“Register” has the meaning given to it in Article 4(1);

“registered holder” has the meaning given to it in paragraph 2 of Schedule 3;

“renewables obligation” has the meaning given to it in Article 3 except where this term is referred to in Articles 15(5) and (6);

“replacement GBROC” means a GBROC issued in accordance with the provisions of a GBRO Order to replace another GBROC;

“replacement NIROC” means a NIROC issued in accordance with Article 5(3)(b) and (4);

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

“United Kingdom supplier” means a designated electricity supplier or a Great Britain designated supplier;

“waste” has the meaning given to it in Article 2(2) of the Waste and Contaminated Land (Northern Ireland) Order 1997⁽⁵⁾, but does not include gas derived from landfill sites or gas produced from the treatment of sewage; and

the expression “the United Kingdom” includes the territorial sea of the United Kingdom and waters in any area designated under section 1(7) of the Continental Shelf Act 1964⁽⁶⁾.

(2) For the purposes of the definition of “hydro generating station”, the “civil works” which are to be regarded as supplying a particular turbine (“the relevant turbine”) are all the man-made weirs, man-made structures and man-made works for holding water which are located on the inlet side of the relevant turbine, but excluding any such weirs, structures or works which supply another turbine before water is supplied to the weirs, structures and works which supply the relevant turbine.

(3) Any reference in this Order to provision of information “in writing” shall include the provision of such information by electronic mail, facsimile or similar means which are capable of producing a document containing the text of any communication.

(3) [S.R. 1994 No. 132](#)

(4) [S.R. 1996 No. 407](#)

(5) [S.I.1997/278 \(N.I. 19\)](#)

(6) [1964 c. 29](#). Section 1(7) of the Continental Shelf Act 1964 was amended by the Oil and Gas (Enterprise) Act 1982 (c. 23), section 37 and Schedule 3, paragraph 1.

(4) Any reference in this Order to the supply of electricity shall, in respect of a supply made in Northern Ireland, be construed in accordance with the definition of “supply” in Article 3 of the Electricity (Northern Ireland) Order 1992(7), and in respect of any other supply, be construed in accordance with the definition of “supply” in section 4(4) of the Electricity Act(8).

The renewables obligation

3.—(1) The renewables obligation is that, subject to Articles 8, 9 and 10, each designated electricity supplier shall before each specified day produce to the Authority evidence showing –

- (a) that he has supplied to customers in Northern Ireland during the obligation period to which the specified day relates such amount of electricity generated from eligible renewable sources as is determined under Article 7; or
- (b) that another electricity supplier has done so (or that two or more others have done so); or
- (c) that, between them, they have done so.

(2) The evidence referred to in paragraph (1) is NIROCs provided that such NIROCs relate to electricity generated from eligible renewable sources.

(3) A NIROC referred to in paragraph (2) shall be regarded as produced to the Authority as the evidence or part of the evidence required under paragraph (1) in respect of an obligation period where before the specified day relating to that period the Authority receives from the designated electricity supplier which holds the NIROC a notification in writing identifying the NIROC to be produced for that purpose and giving the NIROC identifier (as defined in paragraph 2 of Schedule 3).

(4) Without prejudice to paragraph (3), the Authority may draw up procedural guidelines for the production of NIROCs as the evidence or part of the evidence required under paragraph (1).

(5) An electricity supplier has a renewables obligation in respect of an obligation period if he supplies electricity in Northern Ireland at any time during that period regardless of whether he supplies electricity in Northern Ireland for the whole of that period.

NIROCs

4.—(1) The Authority shall establish and maintain a register of NIROCs (“the Register”) which shall be conclusive as to whether or not a NIROC subsists and as to the person who is for the time being its registered holder.

(2) Schedule 3 shall have effect with respect to the Register.

(3) A NIROC comprises a Register entry of its particulars and shall be regarded as being issued at the point when those particulars are entered in the Register by the Authority.

(4) In accordance with the provisions of Schedule 3, the Authority shall ensure that the Register contains, by way of entries made in it –

- (a) an accurate record of the particulars of each NIROC as issued by the Authority (amended to reflect any change of registered holder which may occur) and which remains eligible to be produced as evidence pursuant to Article 3; and
- (b) in addition to the record of the particulars of each NIROC, a list of the names of all persons who are either 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.

(7) S.I. 1992/231 (N.I. 1)

(8) 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) Only the registered holder of a NIROC may use it as the evidence or as part of the evidence required from him under Article 3(1) and a NIROC may not be used by its registered holder or by any other person as the evidence or as part of the evidence required under Article 3(1) from any person other than the registered holder.

(6) The Authority shall not issue a NIROC in respect of any electricity generated by a particular generating station in a particular month if the Great Britain authority has previously issued a certificate under section 32B of the Electricity Act in respect of any such electricity and whether or not any such certificate previously issued has been revoked.

(7) Except as provided in paragraph (8), NIROCs (other than replacement NIROCs) shall be issued by the Authority to the operator of a generating station by which the relevant electricity was generated in a particular month where the Authority is satisfied that each of the relevant criteria in paragraph (10) is met.

(8) Where electricity is required to be generated by a generating station from eligible renewable sources under a qualifying arrangement or in compliance with such an arrangement to be made available to the Company (“the relevant output”), NIROCs (other than replacement NIROCs) appropriate to the amount of the relevant output generated in a particular month shall be issued by the Authority where it is satisfied that each of the relevant criteria in paragraph (10) is met to the licensed suppliers notified to the Authority by the Company as being purchasers of the entitlement to receive NIROCs in arrangements made by the Company pursuant to Article 6 and to each in such quantities as are appropriate to the entitlement which the Company notifies the Authority each has purchased (subject to the total amount of NIROCs available to be so issued).

(9) The Authority shall when issuing NIROCs (other than replacement NIROCs which shall be issued in accordance with Article 5(3)(b) and (4)) –

- (a) allocate a number (“the NIROC sequence number”) to each NIROC issued;
- (b) allocate NIROC sequence numbers sequentially in ascending numerical order to all the NIROCs issued in respect of electricity generated from eligible renewable sources by a particular generating station in a particular month; and
- (c) in the case of a generating station which in a particular month generates electricity from eligible renewable sources under or in compliance with a qualifying arrangement, issue NIROCs in respect of that month firstly to the licensed suppliers to whom paragraph (8) applies in that month on the basis of information provided to it by the Company and thereafter, in the event that the generating station generates any electricity from eligible renewable sources in that month other than under a qualifying arrangement or which in that month is not required in compliance with such an arrangement to be made available to the Company, to the operator of that generating station.

(10) The criteria referred to in paragraphs (7) and (8) and in Article 5(3) are –

- (a) the Authority has previously confirmed in writing to the operator of the generating station to which the NIROC relates that the generating station is accredited as being a generating station capable of generating electricity from eligible renewable sources and the Authority has not since withdrawn that accreditation;
- (b) the Authority has been provided in writing with all the information listed in paragraph 2(b) (i) to (iii) of Schedule 3 together with any other information which it reasonably requires in order to assess whether the NIROC should be issued and it is satisfied that such information is accurate and reliable;
- (c) the operator of the generating station has provided the Authority with a declaration (which the Authority shall be entitled to accept as sufficient evidence of its contents) applicable to the relevant electricity that –
 - (i) he has not made electricity available to any person in circumstances such that the operator knows or has reason to believe that the consumption of the electricity has

resulted in it not having been supplied by an electricity supplier to customers in Northern Ireland;

(ii) he has not consumed the electricity himself in such circumstances that its consumption has resulted in the electricity not having been supplied by an electricity supplier to customers in Northern Ireland; and

(iii) he is not a person mentioned in Article 11(4)(b)(ii) or 11(14)(b)(ii);

(d) NIROCs in respect of the relevant electricity generated by the generating station in the particular month have not already been issued; and

(e) the Authority has not refused to issue a NIROC on any of the grounds set out in paragraph (12).

(11) Where a NIROC, if issued, will be issued to a licensed supplier pursuant to paragraph (8), the references in paragraph (10)(c) to the operator of the generating station shall be treated as references to the Company; but paragraph (10)(c)(iii) shall not apply.

(12) The Authority may refuse to issue a NIROC in any case where the Authority –

(a) is not satisfied as to the reliability or accuracy of the information being presented to it in relation to the issue of the NIROC;

(b) considers that the declaration in paragraph (10)(c) is not accurate in relation to the electricity in respect of which the Authority is considering issuing the NIROC;

(c) has reason to believe that the electricity in respect of which the Authority is considering issuing the NIROC was consumed in circumstances which resulted in the electricity not having been supplied by an electricity supplier to customers in Northern Ireland; or

(d) is not satisfied that the operator of the generating station has, during the relevant month, complied with any condition to which accreditation of the relevant generating station is subject.

(13) Where it issues NIROCs pursuant to this Article the Authority shall –

(a) determine the amount of electricity which is to be regarded as having been generated from eligible renewable sources by a generating station in a particular month (“the relevant month”) and, in determining that amount, it shall use, in the case of the amounts for “gross output” and “input electricity” (as those two expressions are defined in Article 12(5)) the most accurate figures for those amounts which are known to or estimated by the Authority at the end of the second month following the end of the relevant month and it shall disregard any changes to those figures after the end of the said second month and Article 12 shall have effect subject to this sub-paragraph;

(b) deduct from the amount determined in accordance with sub-paragraph (a) any electricity in respect of which in the relevant month any of the criteria in paragraph (10) were not satisfied;

(c) determine the amount of electricity which results from the calculations in sub-paragraphs (a) and (b) and round the amount so determined to the nearest megawatt hour (with any exact half megawatt hour being rounded upwards); and

(d) issue NIROCs appropriate to the amount of electricity determined pursuant to sub-paragraph (c) to the operator of the generating station or to the licensed supplier in accordance with paragraphs (7) and (8) and in determining the number of NIROCs which it is appropriate to issue proceed on the basis that one NIROC represents one megawatt hour of electricity.

(14) The Authority shall issue NIROCs pursuant to this Article in relation to a generating station in respect of each month of each obligation period in which electricity has been generated by the generating station from eligible renewable sources (whether or not for the whole of that month) and

NIROCs in respect of a particular month (“the relevant month”) shall be issued no earlier than the end of the second month following the end of the relevant month.

- (a) (15) (a) This paragraph applies to generating stations with a declared net capacity of 50 kilowatts or less (“sub-50 kilowatt station”).
- (b) The operator of a sub-50 kilowatt station may –
 - (i) not less than one month before the beginning of the first month (“the relevant month”) in respect of which the operator requests the issue of NIROCs in respect of electricity generated by the relevant station; or
 - (ii) not less than one month before the beginning of any obligation period (“the relevant obligation period”),give notice in writing to the Authority that its entitlement to NIROCs in respect of electricity generated by that station (“the relevant station”) shall be determined on the basis set out in the remainder of this paragraph.
- (c) Sub-paragraph (d) shall apply –
 - (i) where an operator has given notice as specified in paragraph 15(b)(i), in the case of the relevant station for the remainder of the obligation period during which the relevant month falls and subsequent obligation periods; and
 - (ii) where an operator has given notice as specified in paragraph 15(b)(ii), in the case of the relevant station for the relevant obligation period and subsequent obligation periods.
- (d) Where this sub-paragraph applies, the reference to “month” in each place where it occurs in Articles 2(1)(definition of biomass) 4, 5, 10, 11 and 12 and Schedule 3 shall be taken to be a reference to “obligation period”, subject to the following exceptions –
 - (i) in Article 4(13)(a) the references to “second month” and to “the said second month” shall remain unchanged;
 - (ii) in Article 4(14) the words “of each month” shall be omitted, and the reference to “the end of the second month” shall remain unchanged; and
 - (iii) in paragraph 2(b)(i) of Schedule 3 the words “the month and year” shall be replaced by “the obligation period”.
- (e) An operator who has given notice under sub-paragraph (b) may –
 - (i) if he gave notice under paragraph (15)(b)(i), not less than 1 month before the beginning of any obligation period following the obligation period during which the relevant month falls; or
 - (ii) if he gave that notice under paragraph (15)(b)(ii), not less than 1 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 sub-paragraph (b).
- (f) Where an operator gives notice under sub-paragraph (e) the Authority shall, from the beginning of the obligation period in respect of which the operator gave that notice, determine the operator’s entitlement to NIROCs in respect of electricity generated by the relevant station on the basis set out in paragraph (13).

Revocation of NIROCs

5.—(1) The Authority –

- (a) shall, where in respect of any electricity generated by a generating station in a particular month it is satisfied that the declaration provided to it by the operator of that generating station pursuant to Article 4(10)(c) or by a licensed supplier pursuant to Article 4(11) is

false or that 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 any connected person, revoke all NIROCs issued in respect of that generating station in that month;

- (b) shall, in accordance with the procedure laid down in paragraph (2), revoke any NIROC where it is otherwise satisfied that the NIROC is inaccurate;
- (c) may, in accordance with the procedure laid down in paragraph (2), revoke any NIROC where –
 - (i) the Authority is no longer satisfied that the NIROC should have been issued;
 - (ii) the Authority has reasonable doubts as to the accuracy or reliability of the information upon which the Authority relied prior to the issue of the NIROC; or
 - (iii) the Authority has been unable, due to a failure or refusal by any person (whether inside or outside Northern Ireland) to provide the Authority with any information reasonably requested by it, to check the accuracy of either the NIROC or any information which the Authority relied upon prior to the issue of the NIROC; and
- (d) shall, in reaching a decision as to the inaccuracy of a NIROC for the purposes of paragraph (1)(b) and in exercising its powers to revoke a NIROC pursuant to paragraph (1) (c), disregard any changes to the amounts for “gross output” and “input electricity” (as those two expressions are defined in Article 12(5)) which were used by it (as provided in Article 4(13)(a)) to determine the amount of electricity to be regarded as having been generated from eligible renewable sources by a particular generating station in a particular month.

(2) Where the Authority revokes NIROCs in accordance with paragraph (1)(b) or (c), it shall revoke the appropriate number of NIROCs from those issued in respect of the generating station in respect of a particular month in descending numerical order of NIROC sequence number, deleting those NIROCs previously allocated the highest NIROC sequence numbers and remaining on the Register from the Register in advance of those with lower NIROC sequence numbers and in determining the number of NIROCs which it is appropriate to revoke it shall proceed on the basis that one NIROC represents one megawatt hour of electricity (with any exact half megawatt hour being rounded upwards).

- (3) Where the Authority has revoked a NIROC –
 - (a) it shall as soon as practicable give notice of such revocation in writing to the registered holder of the NIROC at the time of revocation; and
 - (b) other than when a NIROC has been revoked in accordance with paragraph (1)(a), the Authority may, in circumstances where it considers it appropriate to do so, issue a replacement NIROC in accordance with the procedures laid down in paragraph (4) provided that it is satisfied that each of the relevant criteria in Article 4(10) is met and such NIROC shall be treated as if issued under Article 4.
- (4) Where pursuant to paragraph (3)(b) the Authority issues a replacement NIROC it shall –
 - (a) allocate to the replacement NIROC the lowest NIROC sequence number of any NIROC previously issued in respect of the same generating station and same month that has been revoked which has not already been allocated to a replacement NIROC which has not itself been revoked;
 - (b) issue each replacement NIROC to the person to whom the NIROC issued in respect of that generating station and that month and bearing the same NIROC sequence number was previously issued; and
 - (c) proceed on the basis that one NIROC represents one megawatt hour of electricity (with any exact half megawatt hour being rounded upwards).

NIROCs: financial bids

6.—(1) In the case only of a NIROC relating to electricity that has been acquired, or is required to be acquired, under a qualifying 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.

The amount of the renewables obligation

7.—(1) The amount of electricity referred to in Article 3(1)(a), in respect of an obligation period, is such amount of electricity as equals the relevant percentage of all the electricity supplied by the designated electricity supplier to customers in Northern Ireland during the obligation period (as determined pursuant to paragraph (3)), such amount being rounded to the nearest whole megawatt hour (with any exact half megawatt hour being rounded upwards).

(2) In paragraph (1) “the relevant percentage” means, in respect of an obligation period, the percentage set out in the second column of Schedule 2 against the reference to that obligation period in the first column of Schedule 2.

(3) For the purposes of paragraph (1) the amount of electricity supplied by the designated electricity supplier to customers in Northern Ireland during an obligation period is to be determined by taking the aggregate of the estimated figures for his total sales of electricity to customers in Northern Ireland for each of the twelve periods of approximately one month falling wholly or mainly within the obligation period as reflected in the statistics contained in Table 5.5 of “Energy Trends” as that table appears on the Department of Trade and Industry’s website on the 1st August immediately following the end of the obligation period.

(4) Where Table 5.5 of “Energy Trends” is not available in respect of any period the reference in paragraph (3) to Table 5.5 shall be taken to be such table as is published by the Department of Enterprise Trade and Investment or the Department of Trade and Industry in substitution for Table 5.5.

(5) Each designated electricity supplier shall furnish to the Department of Enterprise, Trade and Investment the estimated figures relating to his total sales of electricity to customers in Northern Ireland during an obligation period for incorporation in the statistics referred to in paragraph (3) by no later than the 20th June immediately following the end of the obligation period and this obligation

shall be independent of any obligation to furnish those figures which arises otherwise than under this Order.

(6) Each designated electricity supplier shall before 7th August in each year inform the Authority of the amount in megawatt hours of his renewables obligation in respect of the last obligation period which ended before the 7th August in question and the amount of all electricity supplied by that designated electricity supplier to customers in Northern Ireland during that obligation period (as determined pursuant to paragraph (3)).

Alternative way of discharging renewables obligation: payments

8.—(1) Instead of producing certificates pursuant to Article 3, a designated electricity supplier may discharge (in whole or in part) his renewables obligation in relation to a particular obligation period by making a payment to the Authority before the specified day relating to that obligation period.

(2) Subject to paragraphs (3) to (5), the payment to be made under paragraph (1) is thirty two pounds and thirty three pence for each megawatt hour of electricity generated from eligible renewable sources for which the designated electricity supplier does not produce NIROCs pursuant to Article 3 or eligible GBROCs pursuant to Article 9 (“the buy-out price”).

(3) If, in the case of the calendar year 2005 or any subsequent calendar year, the annual retail prices index for that year (“the later year”) is higher or lower than that for the previous year, the buy-out price relating to the obligation period beginning on the 1st April immediately following the later year shall be increased (if the index is higher) or decreased (if the index is lower) by the annual percentage inflation rate of the retail prices index for the later year.

(4) When the buy-out price is calculated under paragraph (3) the result shall be rounded to the nearest penny (with any exact half of a penny being rounded upwards).

(5) In this Article and in Article 18 “the 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.

Alternative way of discharging renewables obligation: GBROCs

9.—(1) Subject to Article 10(1), instead of producing NIROCs pursuant to Article 3, a designated electricity supplier may discharge (in whole or in part) his renewables obligation in relation to a particular obligation period by producing to the Authority in accordance with this Article eligible GBROCs issued in respect of electricity that has been supplied to customers during that obligation period.

(2) A GBROC referred to in paragraph (1) shall be regarded as produced to the Authority in respect of an obligation period where before the specified day relating to that period the Authority receives from the designated electricity supplier which is treated as holding the GBROC for the purpose of the GBRO order under which it was issued a notification in writing identifying the GBROC to be so produced for that purpose and giving its GBROC identifier.

(3) Without prejudice to paragraph (2), the Authority may draw up procedural guidelines for the production of GBROCs under this Article.

Further provision in relation to production of NIROCs and GBROCs

10.—(1) 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 NIROCs and eligible GBROCs relating to electricity supplied in the immediately preceding obligation period.

(2) In respect of any obligation period which falls –

- (a) within the period from 1st April 2005 up to and including 31st March 2006, no more than 25 per cent;
- (b) within the period from 1st April 2006 up to and including 31st March 2011, no more than 10 per cent; and
- (c) within the period from 1st April 2011 up to and including 31st March 2016, no more than 5 per cent

of a designated electricity supplier's renewables obligation may be satisfied by the production of NIROCs and eligible GBROCs issued in respect of generating stations which, during the month to which a NIROC or an eligible GBROC relates, have been fuelled partly by fossil fuel (as defined in Article 11) and partly by biomass (and by no other fuel).

(3) A designated electricity supplier shall not produce to the Authority a GBROC or a NIROC which has previously been or simultaneously is produced to the Great Britain authority under a GBRO Order.

Eligible renewable sources

11.—(1) Subject to Article 12, electricity shall be considered to have been generated from eligible renewable sources to the extent that it has been generated from renewable sources and provided that it has not been generated by an excluded generating station as specified in paragraphs (2) to (14).

(2) The following shall be excluded generating stations –

- (a) subject to paragraphs (7) and (8), generating stations (other than micro hydro generating stations) which were first commissioned before 1st January 1990 and where the main components have not been renewed since 31st December 1989 as described in paragraph (15); and
- (b) generating stations located outside Northern Ireland.

(3) In paragraph (2)(b) “Northern Ireland” does not include any part of the territorial sea of the United Kingdom.

(a) (4) (a) This paragraph applies where –

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

(b) A generating station –

- (i) which is situated at the location; and
- (ii) to which the applicable qualifying arrangement applied at the time it was commissioned, or which is owned or operated by a person who was a party to the applicable qualifying arrangement (or who is a connected person or a linked person in relation to any such party),

shall be an excluded generating station.

- (c) Sub-paragraph (b) shall not apply to a station which, during the month in question, generates only electricity which is sold pursuant to another extant qualifying arrangement.
 - (d) In this paragraph and in paragraph (14), in relation to a person who is a party to the applicable qualifying arrangement (“the first person”), another person (“the second person”) is a “linked person” where the second person has given or has arranged to give or has ensured 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.
 - (e) The references in sub-paragraph (d) to the first person and the second person, shall include any person who is a connected person in relation to either of them.
- (5) A generating station shall be an excluded generating station in any month during which it is fuelled wholly or partly by waste unless –
- (a) the only waste or wastes by which it is fuelled in that month is or are biomass or liquids comprised wholly or mainly of hydrocarbon compounds; or
 - (b) all the waste by which it is fuelled in that month which is not biomass has first been manufactured into fuel which is in either a gaseous or liquid form (or both) by means of plant and equipment using advanced conversion technologies only.
- (6) A generating station shall be an excluded generating station in any month during which it is fuelled partly by fossil fuel and partly by any other fuel (or fuels) other than biomass.
- (7) A generating station shall not be an excluded generating station by virtue of paragraph (2) (a) in any month during which it is fuelled partly by fossil fuel and partly by biomass (and by no other fuel).
- (8) A generating station shall not be an excluded generating station by virtue of paragraph (2)(a) in any month during which it is fuelled wholly by biomass, if –
- (a) prior to 1st April 2003 at least 75 per cent of the energy content of the fuel by which it was fuelled was derived from fossil fuel; and
 - (b) during no month (being a month after March 2005) after the first month during which it was fuelled wholly by biomass has the energy content of the fuel by which it was fuelled been derived as to more than 75 per cent from fossil fuel.
- (9) (a) After 31st March 2009 a generating station which in any month is fuelled partly by fossil fuel and partly by biomass (and by no other fuel) shall be an excluded generating station during that month if, during that month, less than the specified percentage of the energy content of the biomass derives from energy crops.
- (b) In sub-paragraph (a) “the specified percentage” means, in respect of any month from 1st April 2009 until 31 March 2010, 25 per cent; in respect of any month from 1st April 2010 until 31 March 2011, 50 per cent; and in respect of any month from 1st April 2011 until 31 March 2016, 75 per cent.
- (10) After 31st March 2016 a generating station shall be an excluded generating station in any month during which it is fuelled partly by fossil fuel and partly by biomass (and by no other fuel).
- (11) A generating station shall be an excluded generating station in any month during which it is fuelled wholly or partly by peat.
- (12) A generating station shall be an excluded generating station in any month during which it is fuelled wholly or partly by any substance derived directly or indirectly from any of the substances referred to in paragraph (16)(a)(i) unless that substance is a substance falling within paragraph (16) (a)(ii) or it is waste or a component of biomass.

(13) A generating station shall be an excluded generating station in any month during which it is fuelled wholly or partly by waste where all the waste which is neither biomass nor liquids comprised wholly or mainly of hydrocarbon compounds is or is derived directly or indirectly from one or more of the substances referred to in paragraph (16)(a)(i).

(a) (14) (a) This paragraph applies where an extant qualifying arrangement (“the applicable qualifying 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.

(b) A generating station –

(i) which is situated at the location; and

(ii) which is owned or operated by a person who is a party to the applicable qualifying arrangement, or is a connected person or a linked person (as defined in paragraph (4)

(d)) in relation to any such party,

shall be an excluded generating station.

(c) Sub-paragraph (b) shall not apply to a station which, during the month in question, generates only electricity which is sold pursuant to another extant qualifying arrangement.

(15) For the purposes of paragraph 2(a), the main components of a generating station shall only be regarded as having being renewed since 31st December 1989 where –

(a) in the case of a hydro generating station 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 that date –

(i) either all the turbine runners or all the turbine blades or the propeller; and

(ii) either all the inlet guide vanes or all the inlet guide nozzles; or

(b) in the case of any other generating station, 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 that date.

(16) In this Article –

(a) “fossil fuel” means –

(i) coal, lignite, natural gas (as defined in the Energy Act 1976(9)) and crude liquid petroleum; and

(ii) anything which is derived directly or indirectly from any of the substances referred to in sub-paragraph (a)(i) which (except as mentioned below) is created for the purpose of being used as a fuel,

other than anything (not being a liquid comprised wholly or mainly of hydrocarbon compounds), which is or is derived directly or indirectly from any of the substances referred to in sub-paragraph (a)(i), which is waste or a component of biomass and for the purposes of sub-paragraph (a)(ii) a liquid comprised wholly or mainly of hydrocarbon compounds need not be created for the purposes of being used a fuel;

(b) “waste” is to be regarded as including anything derived directly or indirectly from waste (as that term is defined in Article 2(1)); and

(c) “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.

(17) In this Article and in Article 10 and in Schedule 1, in determining whether a generating station is fuelled by a particular fuel regard is to be had only to fuel which it uses to generate electricity.

(18) For the purposes of this Article and Article 10 and Schedule 1, fossil fuel or waste which a generating station uses for

- (i) the ignition of gases of low or variable calorific value;
- (ii) the heating of the combustion system to its normal operating temperature or the maintenance of that temperature;
- (iii) emission control; or
- (iv) standby generation or the testing of standby generation capacity;

shall only be treated as comprising fuel used to generate electricity in any month in which the combined energy content of the fossil fuel or waste, or both, which the generating station uses for those purposes exceeds 10 per cent of the energy content of the energy sources by which it is fuelled.

(19) For the purposes of this Article and Schedule 1, a generating station shall be regarded as being situated at a location provided for by an extant qualifying arrangement whether it is situated wholly or partly at that location.

Calculation of amount of electricity generated from eligible renewable sources

12.—(1) Subject to paragraphs (2) and (4), the amount of electricity generated by a generating station which is to be regarded as having been generated from eligible renewable sources in any month is to be calculated by multiplying the renewable output of that generating station in that month by a proportion which is equal to the proportion which the net output of that generating station in that month bears to the gross output of that generating station in that month and for the purposes of this calculation –

- (a) “the renewable output” is such amount as is obtained by deducting from the gross output of that generating station in that month the amount of electricity which has been generated from fossil fuel in that month; and
- (b) “the net output” is such amount as is obtained by deducting from the gross output of that generating station in that month the input electricity of that generating station in that month.

(2) In the case of a generating station fuelled wholly or partly by biomass, 2 per cent of the electricity generated from biomass in any month shall be treated as having been generated from fossil fuel unless the operator of the generating station satisfies the Authority that during that month a lesser percentage of the energy content of the biomass derives from fossil fuel, in which case that lesser percentage shall be treated as having been generated from fossil fuel.

(3) In calculating “the renewable output” in the case of a generating station fuelled partly by fossil fuel and partly by another fuel or fuels the amount of electricity which has been generated from fossil fuel is to be determined according to the respective energy contents of the fuels used.

(4) Where the operator of a generating station satisfies the Authority that in any month the input electricity of the generating station does not exceed 0.5 per cent of its gross output, no input electricity shall be deducted from the gross output in calculating the net output of the generating station for that month and, accordingly, the net output shall be equal to the gross output in that month.

(5) In this Article –

- (a) “fossil fuel” has the meaning given to it by Article 52(7) of the Energy Order except that the expression also includes any substance which is derived directly or indirectly from fossil fuel (whether or not such substance is waste or a component of biomass);

- (b) “gross output” means, in relation to any month, the total amount of electricity generated by a generating station in that month; and
- (c) “input electricity” means, in relation to any month, all the electricity used by a generating station in that month (whether or not it is generated by the generating station and whether or not it is used while the generating station is generating electricity) for a purpose directly relating to the operation of that generating station, including fuel handling, fuel preparation, maintenance and pumping water.

Calculation of amount of electricity supplied to customers

13. Where electricity generated from eligible renewable sources has been sold by the operator of the generating station to an electricity supplier and is then purchased from the electricity supplier and consumed by the operator of the generating station, such electricity shall be regarded, for the purposes of this Order, as having been supplied by an electricity supplier to a customer.

Provision of information to the Authority

14.—(1) The Authority may require a designated electricity supplier to provide it with such information in such form and within such time as it may reasonably require which is, in the Authority’s opinion, relevant to the question whether the supplier is discharging, or has discharged, his renewables obligation in relation to any obligation period.

(2) The Authority may request any person who generates, supplies or transmits electricity in relation to which a NIROC has been or may be issued, or any person who buys or sells such electricity or NIROCs (otherwise than as a consumer) to provide the Authority with such information in such form and within such time as it may reasonably request in order to carry out any of its functions under this Order.

(3) Where a designated electricity supplier receives a payment other than under Article 15 or 17 in relation to a failure by a Great Britain designated 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.

Allocation of payments made under Article 8

15.—(1) The aggregate of the amounts received by the Authority under Article 8 in respect of an obligation period (“the relevant obligation period”)(together with any interest thereon received by the Authority) is referred to as “the buy-out fund”.

(2) The Authority shall pay out the buy-out fund, by the 1st December immediately following the relevant obligation period in accordance with the system of allocation specified in paragraphs (3) to (6).

(3) The buy-out fund relating to a relevant obligation period shall be divided amongst the United Kingdom suppliers who meet one or more of the applicable conditions referred to in paragraphs (4) and (5) so that each such United Kingdom supplier receives a proportion of the buy-out fund calculated in accordance with paragraph (6).

(4) The applicable condition for a designated electricity supplier is that, in respect of the relevant obligation period, he has complied (in whole or in part) with his renewables obligation by producing qualifying certificates to the Authority.

(5) The applicable condition for a Great Britain designated supplier is that, in respect of a period contemporaneous with the relevant obligation period, it has complied (in whole or on part) with any renewables obligation imposed on it in accordance with section 32(1) of the Electricity Act by producing qualifying certificates to the Great Britain authority.

(6) The proportion of the buy-out fund which each United Kingdom supplier is entitled to receive under paragraph (3) is equal to the proportion which the amount of the electricity covered by all the qualifying certificates it has produced as mentioned in paragraphs (4) or (5) bears to the total amount of the electricity covered by all of the qualifying certificates produced to the Authority or to the Great Britain authority in respect of the relevant obligation period or any period contemporaneous with the relevant obligation period, in discharge of any renewables obligation imposed in accordance with section 32(1) of the Electricity Act or this Order.

Exchange of information with the Great Britain authority

16.—(1) The Authority shall as soon as reasonably practicable after the specified day notify the Great Britain authority of the GBROC identifier of each GBROC produced to it by a designated electricity supplier under Article 9 and the name of the designated electricity supplier which produced that GBROC and as to the total number of GBROCs produced to the Authority under Article 9 in respect of the obligation period to which the specified day relates.

(2) The Authority shall as soon as reasonably practicable after receiving a notification from the Great Britain authority as to the NIROC identifiers of NIROCs produced to it by Great Britain designated 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 5 and whether it has issued a replacement NIROC under Article 5(3)(b) in respect of any such NIROC;
- (b) the NIROC identifier of any NIROC so notified that has also been produced by a designated electricity supplier under Article 3(2) and the date on which it was so 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(2A) 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 shall as soon as reasonably practicable after the specified day notify the Great Britain authority as to the number of NIROCs produced to the Authority under Article 3 by each designated electricity supplier in respect of the obligation period to which the specified day relates.

(5) The Authority shall as soon as reasonably practicable after the specified day notify the Great Britain authority as to –

- (a) which designated electricity suppliers have discharged their renewables obligation in full in respect of the obligation period to which the specified day relates; and
- (b) which designated electricity suppliers have discharged their renewables obligation in part in respect of the obligation period to which the specified day relates and the amount of electricity covered by all the qualifying certificates that each such designated electricity supplier has produced to the Authority in respect of the obligation period to which the specified day relates.

(6) The Authority shall as soon as reasonably practicable after the end of the late payment period notify the Great Britain authority as to –

- (a) which designated electricity suppliers are to be treated as having discharged their renewables obligation in full in respect of the obligation period to which the end of the late payment period relates by virtue of Article 17(2); and
- (b) which designated electricity suppliers are to be treated as having discharged their renewables obligation in part in respect of the obligation period to which the end of the late payment period relates by virtue of Article 17(3) and the amount of electricity covered by

all the qualifying certificates that each such designated electricity supplier has produced to the Authority in respect of the obligation period to which the late payment period relates..

Late Payments

17.—(1) As soon as reasonably practicable after the specified day in relation to an obligation period (the “obligation period in question”), the Authority shall notify any designated electricity supplier that has not discharged his renewables obligation in full by the specified day (“defaulting supplier”) that he has not fully discharged his renewables obligation, and to what extent.

(2) If a defaulting supplier makes a late payment to the Authority before the end of the late payment period relating to the obligation period in question he shall be treated as having discharged his renewables obligation in full for that obligation period.

(3) If a defaulting supplier pays part of a late payment to the Authority before the end of the late payment period relating to the obligation period in question he shall be treated as having discharged the same proportion of the amount of his renewables obligation which was not discharged by the specified day as the proportion which the partial payment bears to the total late payment required in order for the supplier to be treated under paragraph (2) as having discharged his renewables obligation in full for the obligation period in question.

(4) The Authority shall pay out the late payment fund by the 1st February immediately following the late payment period , in accordance with the system of allocation specified in Article 15(3) to 15(6), as if –

- (a) the references in paragraphs (3) to (6) of that Article to “the buy-out fund” were references to that late payment fund; and
- (b) the references in paragraphs (3) to (6) of that Article to a “relevant obligation period” were references to the obligation period in question.

(5) The Authority shall not, during the late payment period, impose a penalty under Article 45 of the Energy Order on any defaulting supplier in respect of that supplier’s failure to discharge his renewables obligation in full before the specified day.

(6) In this Article –

- (a) “late payment” means the total of –
 - (i) the amount, or additional amount that the defaulting supplier would have paid under Article 8 to discharge his renewables obligation in full immediately before the specified day, taking into account any payments already made by the defaulting supplier under that Article and any qualifying certificates produced by the supplier to the Authority; and
 - (ii) interest on the amount specified in sub-paragraph (i) charged at the specified rate and calculated on a daily basis, from the specified day to the date on which payment is received by the Authority; and
- (b) “the late payment fund” means the aggregate of the amounts received by the Authority under paragraphs (2) and (3) in respect of an obligation period (together with any interest received thereon by the Authority); and
- (c) “specified rate” means 5 percentage points above the base rate of the Bank of England as at the first day of the late payment period in relation to any obligation period.

Functions of the Authority

18. The Authority shall have the functions assigned to it elsewhere in this Order, including any general or specific role, duty or decision making function in addition to the following specific functions –

- (a) the accreditation of generating stations (to be notified to the operator of a generating station which is being accredited in writing from such date and subject to such conditions as the Authority considers appropriate) and the withdrawal of such accreditation or the alteration of any conditions attached to it (such withdrawal or alteration to be notified to the operator of the affected generating station in writing);
- (b) keeping and maintaining a list of accredited generating stations and the conditions for their accreditation and making such list available to the public;
- (c) issuing and revoking NIROCs in accordance with Articles 4 and 5;
- (d) keeping and maintaining a list of NIROCs which have been revoked and making such a list available to the public;
- (e) calculating and publishing before the start of each obligation period (with the exception of the first obligation period to which this Order relates) the amount of the payment per megawatt hour of electricity referred to in Article 8 resulting from the adjustments made to reflect changes in the retail prices index;
- (f) by 1st April each year (with the exception of 1st April 2005 and 2006) publishing an annual report in relation to the obligation period ending on the 31st March in the previous calendar year, such report to include details (or, in the case of sub-paragraph (v), a summary) of –
 - (i) the compliance of each designated electricity supplier with his renewables obligation, including the extent to which that obligation has been met by the production of NIROCs pursuant to Article 3, payments made under Article 8 or the production of eligible GBROCs pursuant to Article 9 or treated as met by payments made under Article 17;
 - (ii) the sums received by each United Kingdom supplier under Articles 15 and 17;
 - (iii) the number of NIROCs issued by the Authority in accordance with Articles 4 and 5, the number of NIROCs accepted by it as evidence under Article 3(1), the number of GBROCs accepted by it under Article 9 and the number of NIROCs issued but not yet deleted in respect of the obligation period;
 - (iv) the number of NIROCs issued by the Authority in accordance with Articles 4 and 5 broken down into different descriptions of generating stations (as referred to in paragraph 2 of Schedule 3);
 - (v) the outcome of any enquiries or investigations conducted by the Authority pursuant to paragraph (g); and
 - (vi) any other matters which the Authority considers relevant to the implementation of this Order;
- (g) monitoring implementation of the renewables obligation and compliance by designated electricity suppliers and operators of generating stations with this Order (including compliance by operators of generating stations with any conditions attached to their accreditation) and such monitoring may include conducting enquiries or investigations into the quantities of electricity generated from eligible renewable sources by accredited generating stations, the quantities of such electricity supplied to customers in Northern Ireland, the transfer and holding of NIROCs, the effect of such matters on the making and allocation of payments under Articles 8, 15 and 17 and the effect of the renewables obligation on designated electricity suppliers and the operators of generating stations;
- (h) publishing at its discretion reports of enquiries or investigations conducted by the Authority pursuant to paragraph (g); and
- (i) 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.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 11th February 2005.

L.S.

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