



# Electricity Act 1989

## 1989 CHAPTER 29

### PART I

#### ELECTRICITY SUPPLY

##### *Protection of public interest*

#### [<sup>F1</sup>32] **Obligation in connection with electricity from renewable sources.**

- (1) The Secretary of State may by order impose on each electricity supplier falling within a specified description (a “designated electricity supplier”) an obligation to do what is set out in subsection (3) (and that obligation is referred to in this section and sections 32A to 32C as the “renewables obligation”).
- (2) The descriptions of electricity supplier upon which an order may impose the renewables obligation are those supplying electricity—
  - (a) in Great Britain;
  - (b) in England and Wales; or
  - (c) in Scotland,excluding such categories of supplier (if any) as are specified.
- (3) Subject to the provisions of this section and sections 32A and 32C, the renewables obligation is that the designated electricity supplier must, before a specified day (or before each of several specified days, or before a specified day in each year), produce to the Authority evidence of a specified kind showing—
  - (a) that it has supplied to customers in Great Britain during a specified period such amount of electricity generated by using renewable sources as is specified in relation to such a supplier; 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.

*Status: Point in time view as at 01/09/2004.*

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- (4) If the order applies only to electricity suppliers in part of Great Britain, it may specify that the only electricity supplied which counts towards discharging the renewables obligation is electricity supplied to customers in that part of Great Britain.
- (5) Evidence of the supply of electricity may not be produced more than once in relation to the same electricity.
- (6) In the case of electricity generated by a generating station fuelled or driven partly by renewable sources and partly by fossil fuel, only the proportion attributable to the renewable sources can count towards discharging the renewables obligation (but this is subject to section 32A(1)(g)).
- (7) Before making an order, the Secretary of State must consult—
- (a) the Authority;
  - (b) the Council;
  - (c) the electricity suppliers to whom the proposed order would apply;
  - (d) the generators of electricity from renewable sources; and
  - (e) such other persons, if any, as he considers appropriate.
- (8) In this section—
- “fossil fuel” means coal, substances produced directly or indirectly from coal, lignite, natural gas, crude liquid petroleum, or petroleum products (and “natural gas” and “petroleum products” have the same meanings as in the <sup>M1</sup>Energy Act 1976);
- “renewable sources” means sources of energy other than fossil fuel or nuclear fuel, but includes waste of which not more than a specified proportion is waste which is, or is derived from, fossil fuel;
- “specified” means specified in the order.
- (9) An order under this section shall not be made unless a draft of the instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.]

#### Textual Amendments

- F1** S. 32 substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 62; S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

#### Modifications etc. (not altering text)

- C1** S. 32 functions transferred to Scottish Ministers (S.) by virtue of S.I. 2000/3253, arts. 1(3)(a), 2, Sch. (with art. 6) (as amended (15.12.2006) by S.I. 2006/3258, arts. 1(2), 3(3) (with art. 5))
- C2** S. 32 saved (E.W.) (1.10.2001) by S.I. 2000/2727, art. 8A (as inserted (1.10.2001) by S.I. 2001/3268, art. 2(11))
- C3** S. 32 saved (S.) (1.10.2001) by S.I. 2001/3269, art. 7

#### Marginal Citations

- M1** 1976 c. 76.

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## [<sup>F2</sup>32A Orders under section 32: supplementary.

- (1) An order under section 32 may make provision generally in relation to the renewables obligation imposed by the order, and may in particular specify—
  - (a) different obligations for successive periods of time;
  - (b) that only electricity generated using specified descriptions of renewable source is to count towards discharging the obligation (or that such electricity is to count only up to a specified amount);
  - (c) that only electricity generated by specified descriptions of generating station is to count towards discharging the obligation (or that such electricity is to count only up to a specified amount);
  - (d) that a specified minimum amount of electricity generated as mentioned in paragraph (b) or (c) is to be counted towards the discharge of the renewables obligation;
  - (e) how the amount of electricity supplied by an electricity supplier (whether generally or to particular customers or descriptions of customer) is to be determined;
  - (f) how the proportion referred to in section 32(6) or in the definition of “renewable sources” in section 32(8) is to be determined;
  - (g) the consequences for the discharge of the renewables obligation if a generating station of the type mentioned in section 32(6) uses more than a specified proportion of fossil fuel during a specified period (which may include the consequence that none of the electricity generated by that generating station during that period is to count towards discharging the obligation);
  - (h) that specified information, or information of a specified nature, is to be given to the Authority (in addition to the evidence referred to in section 32(3)), and the form in which it is to be given.
- (2) An order may, in relation to any specified period (“the current period”)—
  - (a) provide that evidence of electricity supplied in a later period may, when available, be counted towards discharging the renewables obligation for the current period;
  - (b) provide that evidence of electricity supplied in the current period may, in a later period, be counted towards discharging the renewables obligation for that period;
  - (c) specify how much later the later period referred to in paragraph (a) or (b) may be;
  - (d) specify a maximum proportion of the renewables obligation for any period which may be discharged as mentioned in paragraph (a) or (b);
  - (e) specify a maximum proportion of electricity supplied in any period evidence of which may be counted towards discharging the renewables obligation for a different period.
- (3) An order may make—
  - (a) different provision for different cases or circumstances; and
  - (b) different provision in relation to different suppliers,if the Secretary of State is of the opinion that the differences are such that no electricity supplier would be unduly disadvantaged in competing with other electricity suppliers.
- (4) An order may provide for the Authority to require an electricity supplier to provide it with information, or with information of a particular kind, which is in its opinion

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relevant to the question whether the supplier is discharging, or has discharged, the renewables obligation.

- (5) That information must be given to the Authority in whatever form it requires.
- (6) No person shall be required by virtue of this section to provide any information which he could not be compelled to give in evidence in civil proceedings in the High Court or, in Scotland, the Court of Session.
- (7) An order may make further provision as to the functions of the Authority in relation to the obligation imposed by the order.

#### Textual Amendments

- F2** S. 32A inserted (1.10.2001) by 2000 c. 27, s. 63; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

#### [<sup>F3</sup> 32B] **[<sup>F3</sup> Green certificates.]**

- (1) An order under section 32 may provide for the Authority to issue from time to time, in accordance with such criteria (if any) as are specified in the order, a certificate to the operator of a generating station or to an electricity supplier.
- (2) A certificate is to certify—
  - (a) that the generating station or, in the case of a certificate issued to an electricity supplier, a generating station specified in the certificate, has generated from renewable sources the amount of electricity stated in the certificate; and
  - (b) that it has been supplied to customers in Great Britain (or the part of Great Britain stated in the certificate).
- (3) If an electricity supplier produces a certificate to the Authority, it is to count for the purposes of section 32(3) as sufficient evidence of the facts certified.]

#### Textual Amendments

- F2** S. 32A inserted (1.10.2001) by 2000 c. 27, s. 63; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F3** S. 32B inserted (1.10.2001) by 2000 c. 27, s. 64; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

#### Modifications etc. (not altering text)

- C4** S. 32B: transfer of functions (1.11.2001) by S.I. 2001/3504, arts. 1(2)(a), 2, Sch. (with art. 4) (as amended (15.12.2006) by S.I. 2006/3258, arts. 1(2), 3(4) (with art. 5))

#### [<sup>F4</sup> 32C] **[<sup>F4</sup> Payment as alternative to complying with order under section 32.]**

- (1) An order under section 32 may provide that instead of producing evidence under section 32(3), an electricity supplier may discharge (in whole or in part) its renewables obligation (or its obligation in relation to a particular period) by making a payment to the Authority.
- (2) The order may make provision—

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- (a) as to the sum which for the purposes of subsection (1) is to correspond to the supply of a given amount of electricity;
  - (b) for different such sums in relation to different periods;
  - (c) for different such sums in relation to electricity generated in different ways specified in the order (such as those referred to in section 32A(1)(b) and (c)); and
  - (d) for any such sum to be adjusted from time to time for inflation by a method specified in the order (which may refer to a specified scale or index or to other specified data of any description, including such a scale or index or such data in a form not current when the order was made, but in a subsequent form attributable to revision or any other cause and taking effect afterwards).
- (3) The Authority must pay the amounts received to electricity suppliers in accordance with a system of allocation specified in the order.
- (4) The system of allocation specified in the order may provide for payments to specified categories of electricity supplier only.]

**Textual Amendments**

- F2** S. 32A inserted (1.10.2001) by 2000 c. 27, s. 63; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F4** S. 32C inserted (1.10.2001) by 2000 c. 27, s. 65; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

**Modifications etc. (not altering text)**

- C5** S. 32C: transfer of functions (1.11.2001) by S.I. 2001/3504, arts. 1(2)(a), 2, Sch. (with art. 4)

**F5**33 .....

**Textual Amendments**

- F2** S. 32A inserted (1.10.2001) by 2000 c. 27, s. 63; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F5** S. 33 ceased to have effect (21.11.2000) by virtue of 2000 c. 27, s. 66; S.I. 2000/2414, art. 2 (subject to saving in art. 3(2)) and s. 33 repealed (1.10.2001) by 2000 c. 27, s. 108, Sch. 8; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

**Modifications etc. (not altering text)**

- C6** S. 33 saved (with modifications) (27.10.2000 with effect on 21.11.2000) by S.I. 2000/2727, art. 11; and, as so saved, further modified (E.W.) (1.10.2001) by S.I. 2001/3268, art. 3 and (S.) (1.10.2001) by S.I. 2001/3269, art. 9; and, as so saved, further modified (E.W.) (30.12.2001) by S.I. 2001/3914, art. 2; and, as so saved, further modified (S.) (31.3.2002) by S.S.I. 2002/92, art. 2(2)
- C7** S. 33 applied (2.10.2001) by S.I. 1990/266, reg. 2(1) (as inserted (2.10.2001) by S.I. 2001/3286, reg. 3(4))

**34 Fuel stocks etc. at generating stations.**

- (1) This section applies to any generating station which—

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- (a) is of a capacity not less than 50 megawatts; and
  - (b) is fuelled otherwise than by waste or manufactured gases;
- and in this subsection “waste” has the same meaning as in the <sup>M2</sup>Control of Pollution Act 1974.
- (2) The Secretary of State may by order provide that subsection (1) above shall have effect as if for the capacity mentioned in paragraph (a) there were substituted such other capacity (not exceeding 100 megawatts) as may be specified in the order.
- (3) In respect of any generating station to which this section applies, the Secretary of State may give a direction requiring the person who operates it—
- (a) to make such arrangements with respect to stocks of fuel and other materials held at or near that generating station for the purposes of its operation as will—
    - (i) enable those stocks to be brought within a specified time to, and thereafter maintained at, a specified level; and
    - (ii) ensure that they do not fall below that level, except as may be permitted by the terms of the direction or by a direction under subsection (4) below;
  - (b) to create such stocks and make such arrangements with respect to them;
- and the amount of any stocks may be specified by reference to the period for which it would enable the generating station to be maintained in operation.
- (4) In respect of any generating station to which this section applies, the Secretary of State may give a direction—
- (a) authorising or requiring the person who operates it to make such use as may be specified of any stocks held at or near that generating station; and
  - (b) requiring that person to operate, or not to operate, that generating station for specified periods, at specified levels of capacity or using specified fuels.
- (5) In subsections (3) and (4) above “specified” means specified by or under the Secretary of State’s direction; and a direction may—
- (a) specify the cases and circumstances in which any stocks are to be treated as held at or near any generating station;
  - (b) specify the extent to which the direction may be treated as complied with where, under arrangements made or approved by the Secretary of State, access can be had to stocks held for the use of a number of consumers;
  - (c) specify the manner in which any period mentioned in subsection (3) or (4) above is to be determined;
  - (d) require anything falling to be specified under the direction to be specified by such persons and by reference to such matters as may be specified.
- (6) A direction under subsection (3) or (4) above which confers on any person the function of specifying anything falling to be specified under the direction may require that person to exercise that function in such manner as may be specified by the direction.

#### Textual Amendments

**F2** S. 32A inserted (1.10.2001) by [2000 c. 27, s. 63](#); [S.I. 2001/3266, art. 2, Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

#### Modifications etc. (not altering text)

**C8** S. 34: transfer of certain functions (S.) (1.7.1999) by [S.I. 1999/1750, arts. 1, 2, Sch. 1](#) (with [art. 7](#))

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**C9** By S.I. 1990/1066, **art. 2** it is provided that s. 34(1) shall have effect as if for the capacity of 50 megawatts mentioned in para. (a), there were substituted the capacity of 10 megawatts

#### Marginal Citations

**M2** 1974 c. 40.

### 35 Provisions supplementary to section 34.

(1) The Secretary of State may give a direction requiring [<sup>F6</sup>the holder of a transmission licence] to give to the Secretary of State, after consultation with specified persons, any information or advice which the Secretary of State may reasonably require for purposes connected with the exercise of his functions under section 34 above.

[<sup>F7</sup>(2) The Secretary of State may give a direction requiring any person who is authorised by a licence to participate in the transmission of electricity to carry on the activities which the licence authorises (or any of them), at any time when a direction under section 34(4) above is in force, either in a specified manner or with a view to achieving specified objectives.]

(3) In subsections (1) and (2) above “specified” means specified by or under the Secretary of State’s direction; [<sup>F8</sup>and a person subject to a direction under subsection (2) above shall give effect to it notwithstanding any other duty imposed on him by or under this Part.]

(4) The Secretary of State shall lay before each House of Parliament a copy of every direction given under section 34 above or this section unless he is of the opinion that disclosure of the direction is against the interests of national security or the commercial interests of any person.

(5) A person who, without reasonable excuse, contravenes or fails to comply with a direction of the Secretary of State under section 34 above or this section shall be liable—  
(a) on summary conviction, to a fine not exceeding the statutory maximum;  
(b) on conviction on indictment, to a fine.

(6) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Secretary of State.

(7) Paragraphs 1 to 4, 7 and 8 of Schedule 2 to the <sup>M3</sup>Energy Act 1976 (administration of Act and other matters) shall have effect as if—  
(a) section 34 above were contained in that Act;  
(b) the powers of paragraph 1 were exercisable for any purpose connected with securing compliance with a direction under that section;  
(c) information obtained by virtue of that paragraph could lawfully be disclosed to any person by whom anything falls to be specified under such a direction; and  
(d) the powers conferred by sub-paragraph (1)(c) of that paragraph included power to direct that information and forecasts be furnished to any such person.

#### Textual Amendments

**F2** S. 32A inserted (1.10.2001) by 2000 c. 27, s. 63; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

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- F6** Words in s. 35(1) substituted (1.9.2004) by [Energy Act 2004 \(c. 20\), s. 198\(2\), Sch. 19 para. 12\(2\)](#); [S.I. 2004/2184, art. 2\(2\), Sch. 2](#)
- F7** S. 35(2) substituted (1.9.2004) by [Energy Act 2004 \(c. 20\), s. 198\(2\), Sch. 19 para. 12\(3\)](#); [S.I. 2004/2184, art. 2\(2\), Sch. 2](#)
- F8** Words in s. 35(3) substituted (1.9.2004) by [Energy Act 2004 \(c. 20\), s. 198\(2\), Sch. 19 para. 12\(4\)](#); [S.I. 2004/2184, art. 2\(2\), Sch. 2](#)

**Modifications etc. (not altering text)**

- C10** S. 35: transfer of certain functions (S.) (1.7.1999) by [S.I. 1999/1750, arts. 1, 2, Sch. 1](#) (with art. 7)

**Marginal Citations**

- M3** [1976 c. 76.](#)

**36 Consent required for construction etc. of generating stations.**

- (1) Subject to subsections (2) and (4) below, a generating station shall not be constructed, extended or operated except in accordance with a consent granted by the Secretary of State.
- (2) Subsection (1) above shall not apply to a generating station whose capacity—
  - (a) does not exceed the permitted capacity, that is to say, 50 megawatts; and
  - (b) in the case of a generating station which is to be constructed or extended, will not exceed the permitted capacity when it is constructed or extended;
 and an order under this subsection may make different provision for generating stations of different classes or descriptions.
- (3) The Secretary of State may by order provide that subsection (2) above shall have effect as if for the permitted capacity mentioned in paragraph (a) there were substituted such other capacity as may be specified in the order.
- (4) The Secretary of State may by order direct that subsection (1) above shall not apply to generating stations of a particular class or description, either generally or for such purposes as may be specified in the order.
- (5) A consent under this section—
  - (a) may include such conditions (including conditions as to the ownership or operation of the station) as appear to the Secretary of State to be appropriate; and
  - (b) shall continue in force for such period as may be specified in or determined by or under the consent.
- (6) Any person who without reasonable excuse contravenes the provisions of this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Secretary of State.
- (8) The provisions of Schedule 8 to this Act (which relate to consents under this section and section 37 below) shall have effect.
- (9) In this Part “extension”, in relation to a generating station, includes the use by the person operating the station of any land (wherever situated) for a purpose directly



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related to the generation of electricity by that station and “extend” shall be construed accordingly.

#### Textual Amendments

**F2** S. 32A inserted (1.10.2001) by 2000 c. 27, s. 63; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

#### Modifications etc. (not altering text)

**C11** S. 36 restricted by S.I. 1990/442, art. 3(1)(a)

**C12** S. 36 restricted (21.11.2003) by The Norfolk Offshore Wind Farm Order 2003 (S.I. 2003/2830), arts. 1, 16 (with art. 23)

**C13** S. 36 excluded (16.4.2004) by The Gunfleet Sands Offshore Wind Farm Order 2004 (S.I. 2004/933), arts. 1, 16

**C14** S. 36 modified (S.) (27.5.1997) by 1997 c. 8, ss. 57(2), 278(2) (with ss. 64, 219)

S. 36 modified (S.) (27.5.1997) by 1997 c. 10, ss. 10(2), 31, 40(2) (with ss. 9(3), 10(5), 38(6))

**C15** S. 36: transfer of certain functions (S.) (1.7.1999) by S.I. 1999/1750, art. 2, **Sch. 1** (with art. 7)

**C16** S. 36(2) modified (S.) by S.I. 1990/392, art. 2

**C17** S. 36(2) modified (E.W.) (1.12.2001) by S.I. 2001/3642, art. 2

**C18** S. 36(2) modified (S.) (26.9.2002) by The Electricity Act 1989 (Requirement of Consent for Offshore Generating Stations) (Scotland) Order 2002 (S.S.I. 2002/407), art. 3

### 37 Consent required for overhead lines.

- (1) Subject to subsection (2) below, an electric line shall not be installed or kept installed above ground except in accordance with a consent granted by the Secretary of State.
- (2) Subsection (1) above shall not apply—
  - (a) in relation to an electric line which has a nominal voltage not exceeding 20 kilovolts and is used or intended to be used for supplying a single consumer;
  - (b) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation; or
  - (c) in such other cases as may be prescribed.
- (3) A consent under this section—
  - (a) may include such conditions (including conditions as to the ownership and operation of the line) as appear to the Secretary of State to be appropriate;
  - (b) may be varied or revoked by the Secretary of State at any time after the end of such period as may be specified in the consent; and
  - (c) subject to paragraph (b) above, shall continue in force for such period as may be specified in or determined by or under the consent.
- (4) Any person who without reasonable excuse contravenes the provisions of this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Secretary of State.

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#### Textual Amendments

**F2** S. 32A inserted (1.10.2001) by 2000 c. 27, s. 63; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

#### Modifications etc. (not altering text)

**C19** S. 37 restricted by S.I. 1990/442, art. 3(1)(b)

**C20** S. 37 excluded (16.3.1992) by Midland Metro Act 1992 (c. vii), s. 10(3)

**C21** S. 37 modified (S.) (27.5.1997) by 1997 c. 8, ss. 57(2), 278(2) (with ss. 64, 219)

**C22** S. 37: transfer of certain functions (S.) (1.7.1999) by S.I. 1999/1750, art. 2, **Sch. 1** (with art. 7)

**C23** S. 37(1) excluded (1.1.1993) by S.I. 1992/3074, reg.3

**C24** S. 37(1) excluded (18.12.1996) by 1996 c. 61, s. 50(1)

### 38 Preservation of amenity and fisheries.

The provisions of Schedule 9 to this Act (which relate to the preservation of amenity and fisheries) shall have effect.]

#### Textual Amendments

**F2** S. 32A inserted (1.10.2001) by 2000 c. 27, s. 63; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

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