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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 549**

**The Electricity from Non-Fossil Fuel Sources  
(Scotland) Saving Arrangements Order 2005**

**Modification of section 33**

**10.** From the commencement of the order period section 33 of the Electricity Act 1989(1) shall be modified as follows—

- (a) in subsection (1)(c) for “any supply successor company” substitute “the nominated person”;
- (b) for subsection (5) substitute—

“(5) The amount of any payment required to be made to the nominated person by regulations under this section shall be the difference between—

  - (a) the total cost to the nominated person during the qualifying month of purchasing electricity which was generated in pursuance of qualifying arrangements; and
  - (b) the amount received during the qualifying month by the nominated person for the sale of such electricity, or rights relating thereto,

calculated (in each case) by such method as may be specified by regulations under this section and including such costs as are reasonably incurred by the nominated person in relation to the sale and purchase of such electricity and any advance payments or deferred payments.”;
- (c) for subsection (5A) substitute—

“(5A) Where the amount referred to in subsection (5)(b) is greater than the cost referred to in subsection (5)(a) the difference (after any deductions for the costs of the nominated person referred to in subsection (5)) shall be paid by the nominated person to the prescribed person referred to in subsection (1)(b), such sum being calculated by such method as may be specified by regulations under this section.”;
- (d) in subsection (6)(a) after “meters or otherwise” insert “on the nominated person and”;
- (e) in subsection (6)(b) for “a supply successor company” substitute “the nominated person”;
- (f) after subsection (6)(c) insert—

“and;

  - (d) require the Authority after consultation with the Scottish Ministers and such other persons as may be specified to make provision for a debt recovery procedure to be followed by the nominated person, including provision for the consequences for the nominated person of that procedure not being followed.”;
- (g) in subsection (7) for “the supply successor company” substitute “the nominated person”;
- (h) for subsection (7A) substitute—

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(1) 1989 c. 29. Notwithstanding its repeal by section 66 of the Utilities Act 2000, section 33 continues to have effect in Scotland by virtue of article 11(1) of S.I.2000/2727. Section 33 has been amended by S.I. 1997/1185, The Fossil Fuel Levy Act 1998 (c. 5) section 1 and by S.I. 2001/3269.

“(7A) In this section, references to qualifying arrangements in relation to the nominated person are to any arrangements which—

- (a) are new arrangements, as defined in the Electricity from Non-Fossil Fuel Sources (Scotland) Saving Arrangements Order 2005; or
- (b) would be new arrangements but for the fact that the parties to them have modified the arrangements by changing the location of the generating station which is the subject of the arrangements (“modified new arrangements”),

and which (in each case) satisfy such other requirements as may be specified in regulations made under this section.”;

- (i) in subsection (8) after the definition of “leviable electricity” insert—

““nominated person” has the meaning given in the Electricity from Non-Fossil Fuel Sources (Scotland) Saving Arrangements Order 2005;”;

- (j) in subsection (8) after the definition of “qualifying month” insert “and in relation to the nominated person the meaning shall be specified in regulations made under this section”;

- (k) in subsection (8) omit the definition of “public electricity supplier”;

- (l) in subsection (8) in the definition of “supply successor company” for the words from and including “article 6(3)” to “2001” substitute—

“article 8(3) of the Electricity from Non-Fossil Fuel Sources (Scotland) Saving Arrangements Order 2005”; and

- (m) for subsection (10) substitute—

“(10) Regulations under this section may include transitional measures making provision for payments of levy to continue to be made to supply successor companies in relation to entitlement to payments which accrued under this section before this subsection came into effect.”.