
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 154

The Renewables Obligation Order (Northern Ireland) 2009

PART 7

Issue and Revocation of NIROCs

Issue of NIROCs to generators and suppliers

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

(2) Where electricity—

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

(b) in compliance with such an arrangement, is required to be made available to the Company
NIROCs are to be issued as set out in paragraph (3).

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

Issue of NIROCs to agents

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

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

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

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

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

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

(7) Where notice is given under paragraph (5) and received by the Authority, the termination shall take effect (subject to paragraph (8)) at the end of the obligation period during which it is given, and until the expiration of that obligation period, the Authority must continue to issue any relevant NIROCs to the agent.

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

(9) Paragraphs (7) and (8) do not apply in any case where the Authority is satisfied, by evidence produced to it, that owing to exceptional circumstances the termination should have immediate effect.

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

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

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

General criteria for the issue of NIROCs

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

- (a) in the case of a NIROC certifying the matters within Article 54(3) or (4) of the Energy Order, supplied by a designated electricity supplier to customers in Northern Ireland or in the circumstances referred to in paragraph (6);
- (b) in the case of a NIROC certifying the matters within Article 54(5) or (6) of the Energy Order used in a permitted way.

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

- (a) must be generated during a month in which the generating station generating it is accredited under this Order and any conditions to which the accreditation is subject are met;
- (b) subject to paragraph (3), must be measured using a meter which, if used for ascertaining the quantity of electricity supplied by an authorised supplier to a customer, would be approved for the purposes of paragraph 3 of Schedule 7 to the Electricity Order; and
- (c) must not include electricity in respect of which a renewables obligation certificate—
 - (i) has already been issued under this Order and has not been revoked;
 - (ii) has already been issued under an Order made under sections 32 to 32M of the Electricity Act (whether or not it has been revoked).

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

(4) Any information which—

- (a) is relevant to the question whether a NIROC is to be issued, and
- (b) is requested by or required to be provided to the Authority under Article 45 (provision of information to the Authority),

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

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

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

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

- (a) the electricity in question is sold or intended to be sold by the operator or, as the case may be, by an intermediary acting on his behalf through the SEM Pool;
- (b) there exists in relation to each unit of that electricity a relevant arrangement within the meaning of paragraph (7) (and no more than one such arrangement);
- (c) the terms of that relevant arrangement shall be materially complied with by the parties thereto.

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

- (a) shall purchase through the SEM Pool not less than an amount of electricity specified in or determined under the agreement being an amount that shall not exceed the amount of electricity sold through the SEM Pool by the operator or, as the case may be, the intermediary in that period;
- (b) shall purchase through the SEM Pool a total amount of electricity which is not less than the aggregate of:
 - (i) the amount of electricity specified in or determined under the agreement; and
 - (ii) the amount of electricity specified or determined in any other relevant arrangements to which that electricity supplier is a party in respect of that period; and
- (c) shall supply to customers in Northern Ireland from the electricity purchased through the SEM Pool a total amount of electricity which is not less than the aggregate of the amounts of electricity referred to in sub-paragraphs (b)(i) and (b)(ii).

(8) In this Article—

- (a) “SEM Pool” means the wholesale electricity trading and settlement arrangements established by the Trading and Settlement Code.
- (b) “Trading and Settlement Code” means the Single Electricity Market Trading and Settlement Code referred to in the SEM Memorandum as that Code may be amended or replaced from time to time.
- (c) The “SEM Memorandum” means the Memorandum of Understanding referred to in Article 2(3) of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007.
- (d) “intermediary” in relation to the operator of any generating station means the intermediary body, as defined in the Trading and Settlement Code, appointed in respect of that operator.

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

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

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

- (b) that they are not (and to the best of their knowledge and belief will not during the obligation period in which the confirmation is given become) a person who is a party to an applicable NFFO arrangement (within the meaning of Article 20); and
- (c) that they are not (and to the best of their knowledge and belief will not during the obligation period in which the confirmation is given become) a person who is a connected person or a linked person in relation to any such party.

(2) Paragraph (1) does not apply where the person to whom the NIROC is to be issued is the Company under Article 32(3).

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

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

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

- (a) that each of the generating stations in relation to which the NIROC is to be issued—
 - (i) is a microgenerator, and
 - (ii) is accredited as a generating station capable of generating electricity in the same way from the same renewable source, and
- (b) where the generating stations in relation to which the NIROC is to be issued are operated by two or more persons (“the operators”), that the operators have each—
 - (i) appointed the person providing the confirmation to act as agent to receive the NIROC on their behalf in accordance with Article 33 (issue of NIROCs to agents), and
 - (ii) agreed that their entitlement to NIROCs should be determined in the same way (either on a monthly basis or on an annual basis, depending on whether or not a notice has been given to the Authority under Article 52(2) (modifications of this Order in relation to microgenerators in certain circumstances)).

Refusing to issue and revoking NIROCs

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

- (a) where any criterion in Articles 34 to 36 which relates to that NIROC is not (in its opinion) met;
- (b) where any information referred to in Article 34(4) or any confirmation provided to it under this Part is not (in its opinion) accurate and reliable.

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

- (a) any information referred to in Article 34(4) is false;
- (b) any confirmation provided to it under this Part is false; or
- (c) a NIROC was issued on the basis of any fraudulent behaviour, statement or undertaking on the part of the operator of that generating station or a connected person or, where NIROCs are issued to an agent by virtue of Article 33, that agent,

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

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

(4) Where the Authority—

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

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

(5) In determining whether to revoke a NIROC under paragraph (3) or (4), the Authority may disregard any changes to the amounts for “gross output” (within the meaning of Article 23) and “input electricity” (within the meaning of Article 22) which were used by it to determine a generating station’s renewable output in a month if satisfied that, in all the circumstances, it is reasonable for it to do so.

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

NIROCs: financial bids

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

- (a) requiring the determination of the person, being a licensed supplier, to whom the NIROC is to be issued to be made by reference to financial bids made in respect of the NIROC with the person making the highest financial bid being the person to whom the NIROC is to be issued; and
- (b) requiring that person to make a payment, in accordance with his bid, to the Company.

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

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

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