
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 154

The Renewables Obligation Order (Northern Ireland) 2009

PART 8

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

Interpretation

39.—(1) In this Part—

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

- (a) amounts received by the Authority under Article 40 (those amounts relating to the renewables obligation in the relevant period);
- (b) amounts held by the Authority by virtue of Articles 43(4)(b) and 44(4); and
- (c) any interest earned on those amounts;

“compliant United Kingdom supplier” means a United Kingdom supplier which, at the end of the late payment period, has discharged or is treated as if it had discharged in full every UK renewables obligation imposed on it in respect of the relevant period;

“GBRO costs” means the costs which have been or are expected to be incurred by the Great Britain authority in connection with the performance of any of its functions conferred by or under sections 32 to 32M of the Electricity Act during a period which in any order made under those articles corresponds to the settlement period;

“late payment fund” is the fund held by the Authority on the 1st November of the settlement period, being the aggregate of—

- (a) amounts received by the Authority during that period under Article 41 (those amounts relating to the renewables obligation in the relevant period); and
- (b) any interest earned on those amounts;

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

“NIRO costs” means the costs which have been or are expected to be incurred by the Authority in connection with the performance of any of its functions conferred by or under Articles 52 to 55F of the Energy Order during the settlement period;

“non-compliant United Kingdom supplier” means a United Kingdom supplier which, at the end of the late payment period, has not discharged or is not treated as if it had discharged in full every UK renewables obligation imposed on it in respect of the relevant period;

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

“relevant supplier” means an electricity supplier who was a designated electricity supplier in the relevant period and who at the end of the late payment period had discharged or is treated as if he had discharged the whole or part of his renewables obligation for the relevant period; “renewables obligation order” is to be construed in accordance with Article 52(4) of the Energy Order;

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

“total UK buy-out fund” means the fund existing on the 1st September of the settlement period, being the aggregate of—

- (a) the buy-out fund held on that date;
- (b) any fund provided for in a renewables obligation order made under sections 32 to 32M of the Electricity Act which corresponds to the buy-out fund held on that date;

“UK renewables obligation” means—

- (a) the renewables obligation imposed by Article 5 of this Order; or
- (b) a renewables obligation imposed by a renewables obligation order made under section 32 of the Electricity Act; and

“United Kingdom supplier” means

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

(2) In this Part, references to the late payment period, the relevant period and the settlement period, when used in the context of a United Kingdom supplier subject to a UK renewables obligation, are to be construed (where the United Kingdom supplier is not a designated electricity supplier) as references to the period which corresponds to the late payment, relevant or (as the case may be) settlement period in the order under which that UK renewables obligation is imposed.

(3) Any sum payable by suppliers under Articles 40(1) or 41(6) is to be rounded to the nearest penny, with any half of a penny being rounded upwards.

Payments to discharge the renewables obligation

40.—(1) A designated electricity supplier may (in whole or in part) discharge his renewables obligation for an obligation period (“the relevant period”) by making a payment to the Authority before the 1st September in the following obligation period (“the settlement period”).

(2) The payment referred to in paragraph (1) is an amount equal to $\text{£}X \times (Y - Z)$ where—

- (a) X is the sum which corresponds to a renewables obligation certificate by virtue of paragraph (4);
- (b) Y is the number of renewables obligation certificates that the designated electricity supplier, if he makes no payment under paragraph (1), would have to produce to the Authority in order for him to discharge his renewables obligation for the relevant period in full; and
- (c) Z is the number of renewables obligation certificates that he has actually produced to the Authority for that period (or, where he has not produced any at all, zero).

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

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

- (a) for the relevant period commencing on 1st April 2009, £37.19; and
- (b) for each obligation period thereafter, the buy-out price for the previous obligation period increased or, as the case may be, decreased by the percentage increase or decrease in the retail prices index over the 12 month period ending on the 31st December in the previous obligation period (the resulting figure being rounded to the nearest penny, with any half of a penny being rounded upwards).

Late Payments to discharge the renewables obligation

41.—(1) Where a designated electricity supplier fails (in whole or in part) to discharge his renewables obligation for the relevant period before the 1st September in the settlement period, the Authority must notify him of the extent of his default as soon as is reasonably practicable on or after that date.

(2) The extent of the designated electricity supplier's default is an amount equal to the amount calculated under Article 40(2) less any amount that the designated electricity supplier has actually paid to the Authority under Article 40.

(3) Interest is payable on that amount (or, where all or part of it is paid to the Authority before the end of the late payment period, such part of that amount as remains unpaid) during the late payment period.

(4) That interest shall be calculated on a daily basis at 5 percentage points above the base rate charged by the Bank of England on the first day of the late payment period.

(5) Any payment made by a designated electricity supplier towards discharging his default under paragraph (2) will be applied first to any interest that is payable under paragraph (3).

(6) If, by the end of the late payment period, the designated electricity supplier has paid to the Authority under this Article the amount referred to in paragraph (2) and all interest required to be paid on that amount under paragraph (3), he shall be treated as having discharged his renewables obligation for the relevant period.

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

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

42.—(1) Subject to paragraph (2), before the 1st November in the settlement period the Authority must pay—

- (a) into the Consolidated Fund the proportion of the buy-out fund which is equal to the proportion which the NIRO costs bear to the total UK buy-out fund; and
- (b) to the Great Britain authority the proportion of the buy-out fund which is equal to the proportion which the GBRO costs bear to the total UK buy-out fund.

(2) Where the aggregate of the amounts to be paid by the Authority under paragraph (1) would exceed the buy-out fund, before the 1st November of the settlement period the Authority must pay the buy-out fund into the Consolidated Fund and to the Great Britain authority in the same ratio as the NIRO costs bear to the GBRO costs.

(3) Where any amount to be paid under paragraph (1) or (2) is not a whole number when expressed in terms of pounds sterling, it is to be rounded down to the nearest pound sterling.

(4) Where the buy-out fund exceeds the aggregate of the amounts to be paid by the Authority under paragraph (1), the Authority must pay the balance of the buy-out fund to United Kingdom suppliers under and in accordance with Article 44 by the 1st November in the settlement period.

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

43.—(1) Subject to paragraph (2), where the buy-out fund has been paid into the Consolidated Fund and to the Great Britain authority under Article 42(2), before the 1st January of that settlement period the Authority must pay from the late payment fund—

- (a) into the Consolidated Fund an amount which is equal to the difference between the amount that was paid into the Consolidated Fund under Article 42(2) and the amount that would have been paid into it under Article 42(1) had the aggregate of the amounts to be paid by the Authority under Article 42(1) not exceeded the buy-out fund; and
- (b) to the Great Britain authority an amount which is equal to the difference between the amount that was paid to it under Article 42(2) and the amount that would have been paid to it under Article 42(1) had the aggregate of the amounts to be paid by the authority under Article 42(1) not exceeded the buy-out fund.

(2) Where the aggregate of the amounts to be paid by the Authority under paragraph (1) would exceed that late payment fund, before the 1st January of the settlement period the Authority must pay the late payment fund into the Consolidated Fund and to the Great Britain authority in the same ratio as the NIRO costs bear to the GBRO costs.

(3) Where any amount to be paid under paragraph (1) or (2) is not a whole number when expressed in terms of pounds sterling, it must be rounded down to the nearest pound sterling.

(4) Where, after any payments required to be made during the settlement period under paragraph (1) or (2) have been made, the Authority—

- (a) holds more than £50,000 in the late payment fund, the Authority must pay the late payment fund to United Kingdom suppliers under and in accordance with Article 44 by the 1st January in the settlement period;
- (b) hold £50,000 or less in the late payment fund, the Authority must retain that money, which is to constitute part of the buy-out fund held in the obligation period immediately following the settlement period.

Dealing with the buy-out and late payment funds: payments to United Kingdom suppliers

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

(2) The proportion referred to in paragraph (1) is $A \div B$ where—

- (a) A is the number of renewables obligation certificates presented by the United Kingdom supplier to the Authority or the Great Britain authority in order to discharge (in whole or in part) any UK renewables obligation to which it was subject in the relevant period; and
- (b) B is the total number of renewables obligation certificates presented by United Kingdom suppliers to the Authority and the Great Britain authority in order to discharge (in whole or in part) any UK renewables obligation to which they were subject in that period.

(3) Where any amount to be paid under this Article is not a whole number when expressed in terms of pounds sterling, it must be rounded down to the nearest pound sterling.

(4) Where by virtue of the operation of paragraph (3) the Authority continues to hold any sum which otherwise would have been paid out under this Article that sum shall be retained by the Authority and is to constitute part of the buy-out fund held in the obligation period immediately following the settlement period.