

**2015 No. 346**

**ELECTRICITY**

**The Renewables Obligation Closure Order (Northern Ireland)  
2015**

*Laid before the Assembly in draft*

*Made - - - - 29th September 2015*

*Coming into operation in accordance with Article 1*

The Department of Enterprise, Trade and Investment (“the Department”) makes the following Order in exercise of the powers conferred upon it by Articles 55D and 55EA of the Energy (Northern Ireland) Order 2003(a).

The Department has consulted the Northern Ireland Authority for Utility Regulation, the General Consumer Council for Northern Ireland, such generators of electricity from renewable sources in Northern Ireland and other persons as it considered appropriate in accordance with Article 55EB of that Order.

In accordance with Article 66(2) of that Order a draft of this instrument was laid before and approved by a resolution of the Assembly.

**Citation, commencement and application**

1.—(1) This Order may be cited as the Renewables Obligation Closure Order (Northern Ireland) 2015 and comes into operation on the day after the day on which it is made.

(2) This Order does not have effect in relation to electricity generated from onshore wind.

**Interpretation**

2.—(1) In this Order—

“grid works”, in relation to a generating station, means—

- (a) the construction of a connection between the station and a transmission or distribution system for the purpose of enabling electricity to be conveyed from the station to that system, or
- (b) the carrying out of modifications to a connection between the station and a transmission or distribution system for the purpose of enabling an increase in the amount of electricity that can be conveyed over that connection from the station to that system;

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(a) S.I. 2003/419 (N.I.6) Articles 55EA and 55EB were inserted by S.R. 2015/247. Article 66(2) has been amended by S.R. 2015/247.

“network operator” means a distribution exemption holder, distribution licence holder or a transmission licence holder;

“original capacity”, in relation to a generating station, means the generating capacity of the station as accredited;

“radar works” means—

- (a) the construction of a radar station,
- (b) the installation of radar equipment,
- (c) the carrying out of modifications to a radar station or to radar equipment, or
- (d) the testing of a radar station or radar equipment;

“relevant date” means the later of—

- (a) 5th January 2016, and
- (b) the date falling two months after the day on which this Order comes into operation.

(2) Expressions used in this Order which are also used in the Renewables Obligation Order (Northern Ireland) 2009(a) shall have the same meaning as in that Order.

(3) In this Order “distribution licence” and “transmission licence” have the same meaning as in the Electricity (Northern Ireland) Order 1992.

#### **No certificates to be issued in respect of electricity generated after 31st March 2017**

3.—(1) Subject to paragraph (2), no renewables obligation certificates are to be issued under a renewables obligation order in respect of electricity generated after 31st March 2017.

(2) Paragraph (1) does not apply to electricity generated in any one or more of the circumstances set out in Articles 4 to 8.

#### **Circumstances relating to generating stations accredited, and generating capacity added, on or before 31st March 2017**

4. The circumstances set out in this Article are where the electricity is—

- (a) generated by a generating station which was accredited on or before 31st March 2017, and
- (b) generated using—
  - (i) the original capacity of the station, or
  - (ii) any generating capacity which in the Authority’s view first formed part of the station from a date no later than 31st March 2017.

#### **Circumstances relating to certain delays in grid or radar works in the case of generating stations accredited on or before 31st March 2017**

5.—(1) The circumstances set out in this Article are where the electricity is—

- (a) generated by a generating station which was accredited on or before 31st March 2017, and
- (b) generated using 2017/18 capacity in respect of which the documents specified in paragraph (2), (3) or (4) have been submitted by the operator of the station to the Authority.

(2) The documents specified in this paragraph are—

- (a) evidence of an accepted agreement with a network operator (“the relevant network operator”) to carry out grid works in relation to the station (“the relevant grid works”);

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(a) Schedule 2 to S.R. 2009/154 has been amended by Article 30 of S.R. 2013/116. There are other amendments which are not relevant.

- (b) a copy of a document written by, or on behalf of, the relevant network operator which confirms that at the date of receipt of the connection application for the generating station, it was the intention of the relevant network operator to complete the relevant grid works no later than 31st March 2017;
  - (c) a letter from the relevant network operator confirming (whether or not such confirmation is subject to any conditions or other terms) that—
    - (i) the relevant grid works were completed after 31st March 2017, and
    - (ii) in the relevant network operator’s opinion, the failure to complete the relevant grid works on or before 31st March 2017 was outside the control of the generating station developer and was not due to any breach by a generating station developer of any agreement with the relevant network operator; and
  - (d) a declaration by the operator of the generating station that, to the best of their knowledge and belief, the 2017/18 capacity would have formed part of the station on or before 31st March 2017 if the relevant grid works had been completed on or before that date.
- (3) The documents specified in this paragraph are—
- (a) evidence of an agreement between a generating station developer and a person who is not a generating station developer (“the radar works agreement”) for the carrying out of radar works (“the relevant radar works”);
  - (b) a copy of a document written by, or on behalf of, a party to the radar works agreement (other than a generating station developer) which estimated or set a date for completion of the relevant radar works (“the planned radar works completion date”) which was no later than 31st March 2017;
  - (c) a letter from a party to the radar works agreement (other than a generating station developer) confirming, whether or not such confirmation is subject to any conditions or other terms, that—
    - (i) the relevant radar works were completed after the planned radar works completion date, and
    - (ii) in that party’s opinion, the failure to complete the relevant radar works on or before the planned radar works completion date was not due to any breach of the radar works agreement by a generating station developer; and
  - (d) a declaration by the operator of the generating station that, to the best of their knowledge and belief, the 2017/18 capacity would have formed part of the station on or before 31st March 2017 if the relevant radar works had been completed on or before the planned radar works completion date.
- (4) The documents specified in this paragraph are—
- (a) the documents specified in paragraph (2)(a), (b) and (c);
  - (b) the documents specified in paragraph (3)(a), (b) and (c); and
  - (c) a declaration by the operator of the generating station that, to the best of their knowledge and belief, the 2017/18 capacity would have formed part of the station on or before 31st March 2017 if—
    - (i) the relevant grid works had been completed on or before that date, and
    - (ii) the relevant radar works had been completed on or before the planned radar works completion date.
- (5) In this Article—
- “2017/18 capacity”, in relation to a generating station, means any generating capacity—
- (a) which does not form part of the original capacity of the station, and
  - (b) which, in the Authority’s view, first formed part of the station from a date no earlier than 1st April 2017 and no later than 31st March 2018; and
- “generating station developer”, in relation to a generating station, means the operator of the station, or a person who arranged for the construction of the 2017/18 capacity of the station.

**Circumstances relating to certain delays in grid or radar works in the case of generating stations first accredited after 31st March 2017**

6.—(1) The circumstances set out in this Article are where the electricity is generated using the original capacity of a generating station—

- (a) which was not accredited on or before 31st March 2017,
- (b) which was accredited on or before 31st March 2018, and
- (c) in respect of which the documents specified in paragraph (2), (3) or (4) were submitted by the operator of the station and received by the Authority on or before the date on which the Authority made its decision to accredit the station.

(2) The documents specified in this paragraph are—

- (a) evidence of an accepted agreement with a network operator (“the relevant network operator”) to carry out grid works in relation to the station (“the relevant grid works”);
- (b) a copy of a document written by, or on behalf of, the relevant network operator which confirms that at the date of receipt of the connection application for the generating station, it was the intention of the relevant network operator to complete the relevant grid works no later than 31st March 2017;
- (c) a letter from the relevant network operator confirming (whether or not such confirmation is subject to any conditions or other terms) that—
  - (i) the relevant grid works were completed after 31st March 2017, and
  - (ii) in the relevant network operator’s opinion, the failure to complete the relevant grid works on or before 31st March 2017 was outside the control of the generating station developer and was not due to any breach by a generating station developer of any agreement with the relevant network operator; and
- (d) a declaration by the operator of the generating station that, to the best of their knowledge and belief, the station would have been commissioned on or before 31st March 2017 if the relevant grid works had been completed on or before that date.

(3) The documents specified in this paragraph are—

- (a) evidence of an agreement between a generating station developer and a person who is not a generating station developer (“the radar works agreement”) for the carrying out of radar works (“the relevant radar works”);
- (b) a copy of a document written by, or on behalf of, a party to the radar works agreement (other than a generating station developer) which estimated or set a date for completion of the relevant radar works (“the planned radar works completion date”) which was no later than 31st March 2017;
- (c) a letter from a party to the radar works agreement (other than a generating station developer) confirming, whether or not such confirmation is subject to any conditions or other terms, that—
  - (i) the relevant radar works were completed after the planned radar works completion date, and
  - (ii) in that party’s opinion, the failure to complete the relevant radar works on or before the planned radar works completion date was not due to any breach of the radar works agreement by a generating station developer; and
- (d) a declaration by the operator of the generating station that, to the best of their knowledge and belief, the station would have been commissioned on or before 31st March 2017 if the relevant radar works had been completed on or before the planned radar works completion date.

(4) The documents specified in this paragraph are—

- (a) the documents specified in paragraph (2)(a), (b) and (c);
- (b) the documents specified in paragraph (3)(a), (b) and (c); and

- (c) a declaration by the operator of the generating station that, to the best of their knowledge and belief, the station would have been commissioned on or before 31st March 2017 if—
  - (i) the relevant grid works had been completed on or before that date, and
  - (ii) the relevant radar works had been completed on or before the planned radar works completion date.

(5) In this Article, “generating station developer”, in relation to a generating station, means the operator of the station, or a person who arranged for the construction of the station.

**Circumstances relating to certain gasification or pyrolysis generating stations which have received preliminary accreditation on or before 31st March 2015**

7. The circumstances set out in this Article are where the electricity is generated—
- (a) using the original capacity of a generating station—
    - (i) which received preliminary accreditation on or before 31<sup>st</sup> March 2015, and
    - (ii) which was accredited on or before 31st March 2018, and
  - (b) in the way described in Part 1 of Schedule 2 to the Renewables Obligation Order (Northern Ireland) 2009 as—
    - (i) advanced gasification/pyrolysis, or
    - (ii) standard gasification/pyrolysis.

**Circumstances relating to certain gasification or pyrolysis generating stations notified to the Authority on or before the relevant date**

8. The circumstances set out in this Article are where the electricity is generated—
- (a) using the original capacity of a generating station—
    - (i) which was accredited on or before 31st March 2018, and
    - (ii) in respect of which a notice of intent (within the meaning of Article 9) was received by the Authority on or before the relevant date, and
  - (b) in the way described in Part 1 of Schedule 2 to the Renewables Obligation Order (Northern Ireland) 2009 as—
    - (i) advanced gasification/pyrolysis, or
    - (ii) standard gasification/pyrolysis.

**Notices of intent**

9.—(1) For the purposes of Article 8, a notice of intent, in relation to a generating station, is a notice which—

- (a) meets the requirements specified in paragraphs (2) and (3),
  - (b) contains the declarations specified in paragraph (4), and
  - (c) is accompanied by the documents specified in paragraph (5).
- (2) The requirements specified in this paragraph are that the notice—
- (a) is in writing,
  - (b) states the name and address of the person submitting the notice,
  - (c) states that it is being submitted as a notice of intent for the purposes of Article 8,
  - (d) identifies the location, or proposed location, of the station to which the notice relates,
  - (e) confirms that the person submitting the notice is a person who proposes to construct or operate the station to which the notice relates, or a person who is arranging for the construction of the station, and
  - (f) confirms that the station is not yet commissioned.

(3) The requirements specified in this paragraph are that each declaration contained in the notice in accordance with this Article must—

- (a) be signed by an appropriate individual, and
- (b) state that it is made to the best of that individual's knowledge and belief.

(4) The declarations specified in this paragraph are—

- (a) a declaration that following receipt of the confirmation referred to in paragraph (8)(b)—
  - (i) the person submitting the notice will have access to sufficient resources to commission the station, and
  - (ii) the station is expected to be commissioned on or before 31st March 2017; and
- (b) a declaration that the person submitting the notice (or a person connected with that person within the meaning of section 1122 of the Corporation Tax Act 2010(a))—
  - (i) owns the land on which the station is, or is to be, situated, or
  - (ii) has entered into an agreement to lease the land on which the station is, or is to be, situated, or
  - (iii) has an option to purchase or to lease the land on which the station is, or is to be, situated.

(5) The documents specified in this paragraph are, subject to paragraph (6), a copy of—

- (a) an offer from a network operator (“the relevant network operator”) to carry out grid works in relation to the station (“the relevant grid works”); and
- (b) a document written by, or on behalf of, the relevant network operator which confirms that at the date of receipt of the connection application for the generating station, it was the intention of the relevant network operator to complete the relevant grid works no later than 31st March 2017.

(6) Paragraph (5) does not apply if the notice contains a declaration that no grid works are required in order to commission the generating station.

(7) Where the Authority is satisfied that a notice—

- (a) meets the requirements specified in paragraphs (2) and (3),
- (b) contains the declarations specified in paragraph (4),
- (c) was accompanied by the documents specified in paragraph (5), and
- (d) was received by the Authority on or before the relevant date,

the Authority must give the information specified in paragraph (8) to the person who submitted the notice.

(8) The information specified in this paragraph is—

- (a) the date on which the notice of intent was received by the Authority, and
- (b) confirmation that the Authority is satisfied that the notice is a notice of intent for the purposes of Article 8.

(9) In this Article—

“appropriate individual”, in relation to a notice, means—

- (a) where the person submitting the notice is a body corporate (other than a limited liability partnership), an individual who is a director, the treasurer, secretary or chief executive of that body,
- (b) where the person submitting the notice is a limited liability partnership, an individual who is a designated member of that partnership, within the meaning given in section 8 of the Limited Liability Partnerships Act 2000(b),

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(a) 2010 c.4.

(b) 2000 c.12. Section 8 was applied to Northern Ireland by paragraph 9 of Schedule 3 to S.I. 2009/1804 and was amended by paragraph 4 of the same Schedule

- (c) where the person submitting the notice is a partnership (other than a limited liability partnership), an individual who is a partner in that partnership,
- (d) where the person submitting the notice is an unincorporated association (other than a partnership), an individual who is a member of the governing body of that association,
- (e) where the person submitting the notice is an individual, that individual.

(10) For the purposes of paragraph (2)(a), a notice that is “in writing” includes a notice that is submitted to the Authority by electronic mail, facsimile or similar means which are capable of producing a document containing the text of the notice.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 29th September 2015.



*J Mills*  
A senior officer of the  
Department of Enterprise, Trade and Investment

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision for no renewables obligation certificates to be issued under a renewables obligation order in respect of electricity generated after 31st March 2017 unless the electricity is generated in any one or more of the circumstances provided for in the Order.

This Order does not apply to electricity generated from onshore wind.

The circumstances set out in Articles 4 and 5 relate to certain electricity generated by stations accredited on or before 31st March 2017.

The circumstances set out in Article 6 relate to certain electricity generated by stations accredited on or before 31st March 2018 which experience a delay in their commissioning until after 31st March 2017 due to certain grid works or radar works.

The circumstances set out in Article 7 relate to certain electricity generated by certain gasification or pyrolysis generating stations accredited on or before 31st March 2018, in respect of which have preliminary accreditation on or before 31st March 2015.

The circumstances set out in Article 8 relate to certain electricity generated by certain gasification or pyrolysis generating stations accredited on or before 31st March 2018, in respect of which the documents and information specified in Article 9 are provided to the Authority on or before 5th January 2016 (or, if later, two months after the Order comes into operation).

An explanatory memorandum is available alongside this Order on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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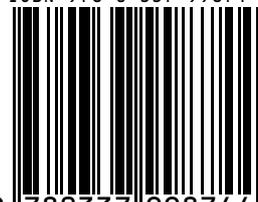
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