
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2006 No.

The Renewables Obligation (Scotland) Order 2006

PART 5

SROCs: Issue and Revocation

Obligation to issue SROCs

15.—(1) Where each of the relevant criteria in article 16 has been met (having regard as necessary to the requirements in article 17), the Authority shall issue SROCs, in accordance with the procedure set out in article 18, in relation to a generating station in respect of each month of each obligation period in which electricity has been generated by the generating station from eligible renewable sources (whether or not for the whole of that month) to the persons specified below.

(2) Except as provided for in paragraphs (3) to (5), SROCs shall be issued to the operator of the generating station by which the relevant electricity was generated in a particular month.

(3) Where electricity is required to be generated by a generating station from eligible renewable sources under a qualifying arrangement or in compliance with such an arrangement to be made available to the nominated person (“the relevant output”), SROCs shall be issued as set out below.

(4) Where the nominated person is entitled to the relevant output under or in compliance with a qualifying arrangement, SROCs shall be issued to electricity suppliers notified to the Authority by the nominated person as being purchasers of the relevant output and to each in such quantities as are appropriate to the amount of the relevant output which the nominated person notifies the Authority each has purchased (subject to the total amount of SROCs available to be so issued).

(5) Where one or more electricity suppliers are entitled to the relevant output under a qualifying arrangement, SROCs shall be issued to those electricity suppliers, each in proportion to its entitlement.

Criteria for issue of SROCs

16.—(1) The criteria for issue of SROCs referred to in article 15 and issue of replacement SROCs referred to in article 20(4) are those detailed in paragraphs (2) to (10).

(2) The first criterion is that the Authority has previously confirmed in writing to the operator of the generating station to which the SROC relates that the generating station has been granted accreditation as a generating station capable of generating electricity from eligible renewable sources and the Authority has not since withdrawn that accreditation.

(3) The second criterion is that the Authority has been provided in writing with all the information listed in paragraphs 2(b)(i) to (iii) of Schedule 2 together with any other information which it reasonably requires in order to assess whether the SROC should be issued and it is satisfied that such information is accurate and reliable.

(4) The third criterion is that the operator of the generating station has provided the Authority with a declaration (which the Authority shall be entitled to accept as sufficient evidence of its contents

and which the operator need only provide once during every obligation period) applicable to the relevant electricity that—

- (a) the operator has not made (or, where the declaration relates to electricity that the operator proposes to generate after the declaration is made, that the operator will not make) the electricity available to any person in circumstances such that the operator knows or has reason to believe that the consumption of the electricity has resulted (or, as the case may be, will result) in it not having been supplied by an electricity supplier to customers in Great Britain (or, in the case of a SROC certifying the matters within section 32B(2A) of the Act, by a Northern Ireland supplier to customers in Northern Ireland);
- (b) the operator has not consumed (or, where the declaration relates to electricity that the operator proposes to generate after the declaration is made, that the operator will not consume) the electricity itself in such circumstances that its consumption has resulted (or, as the case may be, will result) in the electricity not having been supplied by an electricity supplier to customers in Great Britain (or, in the case of a SROC certifying the matters within section 32B(2A) of the Act, by a Northern Ireland supplier to customers in Northern Ireland); and
- (c) the operator is not (and does not intend during the obligation period to become) a person mentioned in article 6(2)(b) or (4)(b).

(5) The fourth criterion is that, where the electricity has been generated on land in Northern Ireland and supplied to customers in Great Britain, the operator of the generating station has provided the Authority with evidence of the following matters—

- (a) the quantity, date and period of time (referred to in this sub paragraph as “the relevant period”) during the particular month when the electricity from eligible renewable sources was generated by the generating station;
- (b) that such electricity was delivered by means of a transmission and distribution network in Northern Ireland from the generating station to an interconnector between Great Britain and Northern Ireland during each relevant period;
- (c) that such electricity flowed across such interconnector to Great Britain during each relevant period;
- (d) that no electricity flowed, or was claimed by a user of the interconnector or the interconnector operator to have flowed, across such interconnector in the opposite direction during each relevant period; and
- (e) that such interconnector was capable of conveying such quantity of electricity (together with any other electricity which was contracted to be conveyed) during each relevant period;

and the Authority is satisfied with such evidence.

(6) The fifth criterion is that, where the electricity was not generated on land in Great Britain or in Northern Ireland and was supplied to customers in Great Britain, the operator of the generating station has provided the Authority with evidence of the following matters—

- (a) that at the time the electricity was generated the generating station was connected directly to a transmission and distribution network in Great Britain and electricity generated by that generating station could not have been conveyed to Great Britain via an interconnector; or
- (b) that at the time the electricity was generated the generating station was connected directly to a transmission and distribution network in Northern Ireland that it was not connected directly to any other transmission and distribution network and of those matters listed in paragraph (5)(a) to (e);

and the Authority is satisfied with such evidence.

(7) The sixth criterion is that, in the case of a SROC certifying the matters within section 32B(2A) of the Act and which relates to electricity which was generated by a generating station which, at the time the electricity was generated, was not directly and exclusively connected to a transmission or distribution network in Northern Ireland, the operator of the generating station has provided the Authority with evidence of the following matters—

- (a) the quantity, date and period of time (referred to in this sub paragraph as “the relevant period”) during the particular month when the electricity from eligible renewable sources was generated by the generating station;
- (b) that such electricity was delivered by means of a transmission and distribution network in Great Britain from the generating station to an interconnector between Great Britain and Northern Ireland during each relevant period;
- (c) that such electricity flowed across such interconnector to Northern Ireland during each relevant period;
- (d) that no electricity flowed, or was claimed by a user of the interconnector or the interconnector operator to have flowed, across such interconnector in the opposite direction during each relevant period;
- (e) that such interconnector was capable of conveying such quantity of electricity (together with any other electricity which was contracted to be conveyed) during each relevant period,

and the Authority is satisfied with such evidence.

(8) The seventh criterion is that, in the case of a SROC certifying the matters within section 32B(2A) of the Act which relates to electricity which was generated by a generating station which, at the time the electricity was generated, was directly and exclusively connected to a transmission or distribution network in Northern Ireland, the operator of the generating station has provided the Authority with evidence of the quantity, date and period of time during the particular month when the electricity from eligible renewable sources was generated by the generating station, and the Authority is satisfied with such evidence.

(9) The eighth criterion is that SROCs in respect of the relevant electricity generated by the generating station in the particular month have not already been issued.

(10) The ninth criterion is that the Authority is not prohibited from issuing a SROC on any of the grounds set out in article 17(2) and has not refused to issue a SROC on any of the grounds set out in article 17(3).

Criteria for issue of SROCs: supplemental

17.—(1) Where a SROC, if issued, will be issued to an electricity supplier pursuant to article 15(4) or (5), the references in article 16(4) to the operator of the generating station shall be treated as references to that electricity supplier but article 16(4)(c) shall not apply.

(2) The Authority shall not issue a SROC—

- (a) in respect of any electricity generated by a particular generating station in a particular month if it has previously issued a certificate under section 32B of the Act in respect of any such electricity other than under this Order, whether or not any such certificate previously issued has been revoked; or
- (b) certifying the matters within section 32B(2A) of the Act, where the Northern Ireland Authority has notified the Authority that it is not satisfied that the electricity in question has been supplied to customers in Northern Ireland.

(3) The Authority may refuse to issue a SROC in any case where the Authority—

- (a) except in the case of a SROC certifying matters within section 32B(2A) of the Act, considers that the declaration in article 16(4) is not accurate in relation to the electricity in respect of which the Authority is considering issuing the SROC; or
 - (b) except in the case of a SROC certifying the matters within section 32B(2A) of the Act, has reason to believe that the electricity in respect of which the Authority is considering issuing the SROC was consumed in circumstances which resulted in the electricity not having been supplied by an electricity supplier to customers in Great Britain; or
 - (c) is not satisfied that the operator of the generating station has, during the relevant month, complied with any condition to which accreditation of the relevant generating station is subject.
- (4) For the purpose of article 16(3), where information regarding the fuel used by the generating station has originated at a separate location to that of the generating station, in determining whether the information is accurate and reliable the Authority may have regard to—
- (a) the distance over which the fuel was transported;
 - (b) the conditions under which the fuel was prepared and transported;
 - (c) the resources required for the Authority to verify the accuracy and reliability of the information; and
 - (d) such other matters as it considers relevant.

Procedure and calculations for issue of SROCs

18.—(1) The Authority shall, when issuing SROCs (other than replacement SROCs which shall be issued in accordance with article 20(4)(b) and (5))—

- (a) allocate a number (“the SROC sequence number”) to each SROC issued;
 - (b) allocate SROC sequence numbers sequentially in ascending numerical order to all the SROCs issued in respect of electricity generated from eligible renewable sources by a particular generating station in a particular month; and
 - (c) in the case of a generating station which in a particular month generates electricity from eligible renewable sources under or in compliance with a qualifying arrangement, issue SROCs in respect of that month—
 - (i) firstly to the electricity suppliers to whom article 15(4) or (5) applies in that month on the basis of information provided to it by the nominated person; and
 - (ii) thereafter, in the event that the generating station generates any electricity from eligible renewable sources in that month other than under a qualifying arrangement or which in that month is not required in compliance with such an arrangement to be made available to the nominated person, to the operator of that generating station.
- (2) Where it issues SROCs pursuant to this Part the Authority shall—
- (a) determine the amount of electricity which is to be regarded as having been generated from eligible renewable sources by a generating station in a particular month (“the relevant month”) pursuant to article 9;
 - (b) deduct from the amount determined in accordance with sub paragraph (a) any electricity in respect of which in the relevant month any of the relevant criteria in article 13(1) were not satisfied;
 - (c) determine the amount of electricity which results from the calculations in sub paragraphs (a) and (b) and round the amount so determined to the nearest megawatt hour (with any exact half megawatt hour being rounded upwards);

- (d) determine the number of SROCs which it is appropriate to issue for the amount of electricity determined pursuant to sub-paragraph (c) above on the basis that one SROC represents one megawatt hour of electricity; and
 - (e) issue the appropriate number of SROCs determined pursuant to sub-paragraph (d) to the operator of the generating station or to the electricity supplier as specified in article 15.
- (3) Subject to paragraphs (4), (5) and (6), for the purpose of making the determination in paragraph (2)(a) the Authority shall use in the case of the amounts for “gross output” and “input electricity” (as those two expressions are defined in article 9(7)) either–
- (a) the most accurate figures for those amounts which are provided to the Authority at the end of the second month following the end of the relevant month (“the relevant date”); or
 - (b) where the operator of the generating station satisfies the Authority by the relevant date that it will never be possible for it to provide accurate figures, such figures as are estimated by the operator by the relevant date on a basis agreed in advance by the Authority.
- (4) Where figures are neither provided under paragraph (3)(a) nor estimated under paragraph (3)(b) the Authority may, in circumstances which it considers exceptional, accept figures which the operator of the generating station provides after the relevant date.
- (5) Where figures provided under paragraph (3)(a) or accepted under paragraph (4) and, before the Authority makes a determination under paragraph (2)(a), the Authority becomes aware of figures which it considers to be more accurate, the Authority may, where it considers appropriate, accept the later figures and make determinations under paragraph (2)(a) to (d) on the basis of the later figures.
- (6) Where the Authority makes a determination under paragraph (2)(a) on the basis of figures provided under paragraph (3)(a) or accepted under paragraph (4) or (5) and the Authority subsequently becomes aware of figures which it considers to be more accurate, the Authority–
- (a) may, where it considers appropriate, accept the later figures and make new determinations under paragraphs (2)(a) to (d); and
 - (b) shall, where the new determination under paragraph (2)(d) differs from the original determination under that provision, either–
 - (i) if it has not already issued SROCs under paragraph (2)(e), issue SROCs under that paragraph in accordance with the new determination;
 - (ii) revoke SROCs in accordance with article 20 where it has issued too many; or
 - (iii) issue additional SROCs in accordance with paragraph (2)(e) where it has issued too few.
- (7) SROCs in respect of the relevant month shall be issued no earlier than the relevant date.

SROC Register

19.—(1) The Authority shall establish and maintain a register of SROCs (“the Register”) which shall be conclusive as to whether or not a SROC subsists and as to the person who is for the time being its registered holder.

(2) Schedule 2 shall have effect with respect to the Register.

(3) A SROC comprises a Register entry of its particulars and shall be regarded as being issued at the point when those particulars are entered in the Register by the Authority.

(4) In accordance with the provisions of Schedule 2, the Authority shall ensure that the Register contains, by way of entries made in it–

- (a) an accurate record of the particulars of each SROC as issued by the Authority (amended to reflect any change of registered holder which may occur) and which remains eligible to be produced as evidence pursuant to article 3 or article 13; and

- (b) in addition to the record of the particulars of each SROC, a list of the names of all persons who are either the registered holder of a SROC or, although not at that time the registered holder of a SROC, have notified the Authority that they wish an entry to be made and maintained in respect of them as prospective registered holders of SROCs.

(5) Only the registered holder of a SROC may use it as the evidence or as part of the evidence required from the registered holder under article 3(1) and a SROC may not be used by its registered holder or by any other person as the evidence or as part of the evidence required under article 3(1) from any person other than the registered holder.

Revocation of SROCs

20.—(1) The Authority—

- (a) shall, where in respect of any electricity generated by a generating station in a particular month it is satisfied that the declaration provided to it pursuant to article 16(4) is false or that a SROC was issued on the basis of any fraudulent behaviour, statement or undertaking on the part of the operator of that generating station or any connected person, revoke all SROCs issued in respect of that generating station in that month;
- (b) shall revoke any SROC certifying matters within section 32B(2A) of the Act where the Northern Ireland Authority has notified the Authority that it is not satisfied that the electricity in question has been supplied to customers in Northern Ireland;
- (c) shall, in accordance with the procedure laid down in paragraph (3), revoke any SROC where it is otherwise satisfied that the SROC is inaccurate;
- (d) may, in accordance with the procedure laid down in paragraph (3) revoke any SROC where—
 - (i) the Authority is no longer satisfied that the SROC should have been issued;
 - (ii) the Authority has reasonable doubts as to the accuracy or reliability of the information upon which the Authority relied prior to the issue of the SROC; or
 - (iii) the Authority has been unable, due to a failure or refusal by any person (whether inside or outside Scotland) to provide the Authority with any information reasonably requested by it, to check the accuracy of either the SROC or any information which the Authority relied upon prior to the issue of the SROC; and
- (e) subject to paragraph (2), shall, in reaching a decision as to the inaccuracy of a SROC for the purposes of sub-paragraph (c) and in exercising its powers to revoke a SROC pursuant to sub-paragraph (d), disregard any changes to the amounts for “gross output” and “input electricity” (as those two expressions are defined in article 9(7)) which were used by it (as provided in article 18(3)) to determine the amount of electricity to be regarded as having been generated from eligible renewable sources by a particular generating station in a particular month.

(2) Paragraph (1)(e) does not apply where, in accordance with article 18(6), the Authority has accepted later figures and made new determinations under article 18(2)(a) to (d).

(3) Where the Authority revokes SROCs in accordance with paragraph (1)(c) or (d), it shall—

- (a) revoke the appropriate number of SROCs from those issued in respect of the generating station in respect of a particular month in descending numerical order of SROC sequence number; and
- (b) delete from the Register those SROCs previously allocated the highest SROC sequence numbers and remaining on the Register in advance of those with lower SROC sequence numbers,

and in determining the number of SROCs which it is appropriate to revoke it shall proceed on the basis that one SROC represents one megawatt hour of electricity (with any exact half megawatt hour being rounded upwards).

- (4) Where the Authority has revoked a SROC—
 - (a) it shall as soon as practicable give notice in writing of such revocation to the registered holder of the SROC at the time of revocation;
 - (b) other than when a SROC has been revoked in accordance with paragraph (1)(a), the Authority may, in circumstances where it considers it appropriate to do so, issue a replacement SROC in accordance with the procedures laid down in paragraph (5) provided that it is satisfied that each of the relevant criteria in article 16 is met (having regard as necessary to the requirements in article 17), and such SROC shall be treated as if issued under article 15.
- (5) Where pursuant to paragraph (4)(b) the Authority issues a replacement SROC it shall—
 - (a) allocate to the replacement SROC the lowest SROC sequence number of any SROC previously issued in respect of the same generating station and same month that has been revoked which has not already been allocated to a replacement SROC (unless that replacement SROC has itself been revoked);
 - (b) issue each replacement SROC to the person to whom the SROC issued in respect of that generating station and that month and bearing the same SROC sequence number was previously issued; and
 - (c) proceed on the basis that one SROC represents one megawatt hour of electricity (with any exact half megawatt hour being rounded upwards).

Small generators

21.—(1) This article applies to generating stations with a declared net capacity of 50 kilowatts or less (“sub-50 kilowatt stations”).

- (2) The operator of a sub-50 kilowatt station may—
 - (a) not less than one month before the beginning of the first month (“the relevant month”) in respect of which the operator requests the issue of SROCs in respect of electricity generated by the relevant station; or
 - (b) not less than one month before the beginning of any obligation period (“the relevant obligation period”),

give notice in writing to the Authority that its entitlement to SROCs in respect of electricity generated by that station (“the relevant station”) shall be determined on the basis set out in the remainder of this article.

- (3) Paragraph (4) shall apply—
 - (a) where an operator has given notice as specified in paragraph (2)(a), in the case of the relevant station for the remainder of the obligation period during which the relevant month falls and subsequent obligation periods; and
 - (b) where an operator has given notice as specified in paragraph (2)(b), in the case of the relevant station for the relevant obligation period and subsequent obligation periods.
- (4) Where this sub-paragraph applies, the reference to “month” in each place where it occurs in articles 5, 6, 7, 8, 9, 14 to 18 and 20 and Schedule 2 shall be taken to be a reference to “obligation period”, subject to the following exceptions—
 - (a) in article 15(1) the words “of each month” shall be omitted;
 - (b) in article 18(3) the reference to “the second month” shall remain unchanged;

- (c) in article 18(7) the reference to “the end of the second month” shall remain unchanged; and
- (d) in paragraph 2(b)(i) of Schedule 2 the words “the month and year” shall be replaced by “the obligation period”.

(5) An operator who has given notice under paragraph (2) may–

- (a) if that notice was given under sub-paragraph (a), not less than one month before the beginning of any obligation period following the obligation period during which the relevant month falls; or
- (b) if that notice was given under sub-paragraph (b), not less than one month before the beginning of any obligation period following the relevant obligation period,

by notice in writing to the Authority, withdraw the notice given under paragraph (2).

(6) Where an operator gives notice under paragraph (5), the Authority shall, from the beginning of the obligation period in respect of which the operator gave that notice, determine the operator’s entitlement to SROCs in respect of electricity generated by the relevant station on the basis set out in article 15(1).