

### SCHEDULE 3

Articles 2(1)(1)

#### CONDITIONS OF ELIGIBILITY FOR NIROCS

1. The electricity to which the NIROC relates was generated from renewable sources.
2. The electricity was generated in Northern Ireland (which for the purposes of this paragraph shall not include any part of the territorial sea of the United Kingdom).
3. The electricity to which the NIROC relates was not generated by a generating station that is a large hydro generating station unless it was first commissioned after 1st April 2002.
4. Subject to paragraphs 5 and 6, the electricity to which the NIROC relates was not generated by a generating station (other than a micro hydro generating station) that was first commissioned before 1st January 1990 and where the main components of that generating station have not been renewed since 31st December 1989 as described in paragraph 23.
5. Paragraph 4 shall not apply in relation to a NIROC issued in respect of electricity generated by a generating station that during the month to which the NIROC relates was fuelled partly by fossil fuel and partly by biomass (and by no other fuel).
6. Paragraph 4 shall not apply in relation to a NIROC issued in respect of electricity generated by a generating station that during the month to which the NIROC relates was fuelled wholly by biomass, if—
  - (a) prior to 1st April 2003 at least 75 per cent of the energy content of the fuel by which it was fuelled was derived from fossil fuel; and
  - (b) during no month (being a month after March 2004) after the first month during which the generating station was fuelled wholly by biomass has the energy content of the fuel by which it was fuelled been derived as to more than 75 per cent from fossil fuel.
7. The electricity to which the NIROC relates was not generated by a generating station that in the month to which the NIROC relates is fuelled wholly or partly by waste unless—
  - (a) the only waste or wastes by which it is fuelled in that month is or are biomass or liquids comprised wholly or mainly of hydrocarbon compounds; or
  - (b) all the waste by which it is fuelled in that month which is not biomass has first been manufactured into fuel which is in either a gaseous or liquid form (or both) by means of plant and equipment using advanced conversion technologies only; or
  - (c) the generating station is a qualifying combined heat and power generating station.
8. The electricity to which the NIROC relates was not generated by a generating station that in the month to which the NIROC relates was fuelled partly by fossil fuel and partly by any other fuel (or fuels) other than biomass.
9. After 31st March 2009, the electricity to which the NIROC relates was not generated by a generating station that during the month to which the NIROC relates was fuelled partly by fossil fuel and partly by biomass (and by no other fuel) if during that month, less than the specified percentage of the energy content of the biomass derives from energy crops.
10. In paragraph 9, “the specified percentage” means—
  - (a) in respect of any month from 1st April 2009 until 31st March 2010, 25 per cent;
  - (b) in respect of any month from 1st April 2010 until 31st March 2011, 50 per cent; and
  - (c) in respect of any month from 1st April 2011 until 31st March 2016, 75 per cent.

11. After 31st March 2016, the electricity to which the NIROC relates was not generated by a generating station that during the month to which the NIROC relates was fuelled partly by fossil fuel and partly by biomass (and by no other fuel).

12. The electricity to which the NIROC relates was not generated by a generating station that during the month to which the NIROC relates was fuelled wholly or partly by peat.

13. The electricity to which the NIROC relates was not generated by a generating station that during the month to which the NIROC relates was fuelled wholly or partly by any substance derived directly or indirectly from any of the substances referred to in article 8(1)(a)(i) unless that substance is a substance falling within article 8(1)(a)(ii) or it is waste or a component of biomass.

14. The electricity to which the NIROC relates was not generated by a generating station that during the month to which the NIROC relates was fuelled wholly or partly by waste where all the waste which is neither biomass nor liquids comprised wholly or mainly of hydrocarbon compounds is or is derived directly or indirectly from one or more of the substances referred to in article 8(1)(a)(i).

15. Paragraph 16 applies where–

- (a) a qualifying arrangement (“the applicable qualifying arrangement”) provided for the building of a generating station at a specified location (“the location”);
- (b) the applicable qualifying arrangement was terminated due to the operator of the generating station to which it applied having committed an unremedied breach of it; and
- (c) the last period in the tables contained in Schedule 1 to the Non Fossil Fuel Order which relates to the applicable qualifying arrangement has not expired.

16. If this paragraph applies, it is a condition of eligibility that the electricity to which the NIROC relates was not generated by a generating station–

- (a) which is situated at the location; and
- (b) to which the applicable qualifying arrangement applied at the time it was commissioned, or which is owned or operated by a person who was a party to the applicable qualifying arrangement (or who is a connected person or a linked person in relation to any such party).

17. Paragraph 18 applies, where an extant qualifying arrangement (“the applicable qualifying arrangement”) provides for the building of a generating station (“the specified station”) at a specified location (“the location”) and the specified station has not been commissioned.

18. If this paragraph applies it is a condition of eligibility that the electricity to which the NIROC relates was not generated by a generating station–

- (a) which is situated at the location; and
- (b) which is owned or operated by a person who is a party to the applicable qualifying arrangement, or is a connected person or a linked person in relation to any such party.

19. Paragraphs 16 and 18 shall not apply to a NIROC relating to electricity generated by a generating station which, during the month in question, generates only electricity which is sold pursuant to another extant qualifying arrangement.

20. In paragraphs 16 and 18, in relation to a person who is a party to the applicable qualifying arrangement (“the first person”), another person (“the second person”) is a “linked person” where the second person has given or has arranged to give or has ensured or has arranged to ensure that the first person is given a financial or other inducement relating to any right or interest in, or in respect of, the construction or operation of a generating station at the location.

21. The references in paragraph 20 to the first person and the second person shall include any person who is a connected person in relation to either of them.

**22.** For the purposes of paragraphs 15 to 21, a generating station shall be regarded as being situated at a location provided for by an extant qualifying arrangement whether it is situated wholly or partly at that location.

**23.** For the purposes of paragraph 4, the main components of a generating station shall only be regarded as having been renewed since 31st December 1989 where—

- (a) in the case of a hydro generating station the following parts have been installed in the generating station after 31st December 1989 and were not used for the purpose of electricity generation prior to that date—
  - (i) either all the turbine runners or all the turbine blades or the propeller; and
  - (ii) either all the inlet guide vanes or all the inlet guide nozzles; or
- (b) in the case of any other generating station all the boilers and turbines (driven by any means including wind, water, steam or gas) have been installed in the generating station after 31st December 1989 and were not used for the purpose of electricity generation prior to that date.

**24.** The following terms shall have the meanings given below where they appear in this Schedule:

- (a) “fossil fuel” has the meaning given by article 8(1)(a);
- (b) “Non Fossil Fuel Orders” has the meaning that it has in the NIRO Order under which the NIROC was issued;
- (c) “qualifying arrangement” has the meaning that it has in the NIRO Order under which the NIROC was issued;
- (d) “renewable sources” means sources of energy other than fossil fuel or nuclear fuel, but includes waste of which not more than a specified proportion is waste which is, or is derived from, fossil fuel;
- (e) “specified” means specified in this Schedule;
- (f) “waste” is to be regarded as including anything derived directly or indirectly from waste (as that term is defined in article 2(1)).

**25.** Paragraph 26 applies, where in respect of any generating station, the operator—

- (a) has given notice under a NIRO Order which, had that notice been given in respect of a station to which article 21 applies, would have constituted notice under article 21(2); and
- (b) has not done anything that, had it been done in respect of a station to which article 21 applies, would have constituted withdrawal of that notice under article 21(5).

**26.** In the case of a generating station referred to in paragraph 25 the reference to “month” in each place where it occurs in this Schedule shall be taken to be a reference to “obligation period” where “obligation period” has the meaning that it has in the NIRO Order under which the NIROC in question was issued.