

Draft Order laid before the Scottish Parliament under section 32L(3) of the Electricity Act 1989 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2017 No.

ELECTRICITY

The Renewables Obligation (Scotland) Amendment Order 2017

Made - - - - 2017

Coming into force in accordance with article 1

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 32, 32A, 32J and 32K of the Electricity Act 1989(1) and all other powers enabling them to do so.

In accordance with section 32L(1)(2) of that Act the Scottish Ministers have consulted the Gas and Electricity Markets Authority, the National Association of Citizens Advice Bureaux, the Scottish Association of Citizens Advice Bureaux(3), electricity suppliers to whom this Order applies and such generators of electricity from renewable sources and other persons as the Scottish Ministers considered appropriate.

In accordance with section 32L(3) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Renewables Obligation (Scotland) Amendment Order 2017 and comes into force on the day after the day on which it is made.

(2) In this Order “the 2009 Order” means the Renewables Obligation (Scotland) Order 2009(4).

Amendment of the 2009 Order

2. The 2009 Order is amended in accordance with articles 3 to 11.

3. In article 2(1) (interpretation)—

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- (1) 1989 c.29. Sections 32 and 32A were substituted by section 37 of the Energy Act 2008 (c.32) (“the 2008 Act”). Sections 32J and 32K were inserted by said section 37. Section 32(2) contains a definition of “the relevant minister” relevant to the exercise of these powers.
- (2) Section 32L was inserted by section 37 of the 2008 Act and amended by S.I. 2014/631.
- (3) Section 32L refers to “the Authority” which is defined in section 111(1) as the Gas and Electricity Markets Authority. That definition was inserted by paragraph 40(a) of schedule 6 of the Utilities Act 2000 (c.27). Section 32L also refers to, “Citizens Advice” and “Citizens Advice Scotland” which are defined in said section 111(1) as the National Association of Citizens Advice Bureaux and the Scottish Association of Citizens Advice Bureaux. Those definitions were inserted by S.I. 2014/631.
- (4) S.S.I. 2009/140, as amended by S.S.I. 2009/276, S.S.I. 2010/147, S.S.I. 2011/225, S.S.I. 2011/226, S.S.I. 2013/116, S.S.I. 2014/94, S.S.I. 2015/188, S.S.I. 2015/384, S.I. 2016/1108 and S.I. 2017/524.

- (a) after the definition of “the 2007 Order” insert—
 ““the 2015 Order” means the Renewables Obligation Order 2015(5);”;
- (b) after the definition of “designated electricity supplier” insert—
 ““EII excluded electricity” means electricity which constitutes EII excluded electricity within the meaning of regulation 6(1) of the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015(6);”;
- (c) after the definition of “Northern Ireland Energy Order” insert—
 ““obligation level” has the meaning given by article 12B(8);”;
- (d) after the definition of “regular biomass” insert—
 ““relevant electricity” means—
 (a) in respect of—
 (i) any obligation period in respect of which article 12A applies; or
 (ii) any month of an obligation period in respect of which a revised obligation level applies in accordance with article 12B(6)(a)(ii) or (b)(ii) or (7)(a) or (b)(ii),
 any electricity supplied to customers in Scotland other than EII excluded electricity; and
 (b) in respect of any other period, any electricity supplied to customers in Scotland;”;
- and
- (e) after the definition of “retail prices index” insert—
 ““revised obligation level” has the meaning given by article 12B(8);”.
- 4.** In article 5(2) (the renewables obligation)—
 (a) for “electricity that it supplies to customers in Scotland” substitute “relevant electricity that it supplies”; and
 (b) in sub-paragraph (a), for “article 12;” substitute “article 12, 12A or 12B, as the case may be;”.
- 5.** In article 7 (part of calculation A referable to Great Britain), for “article 6(1) of the Renewables Obligation Order 2009” substitute “article 8(1) of the 2015 Order”.
- 6.** In article 8 (part of calculation A referable to Northern Ireland), for “article 7(1) of the Renewables Obligation Order 2009” substitute “article 9(1) of the 2015 Order”.
- 7.** In article 9(1) (calculation B), for “article 9(2) of the Renewables Obligation Order 2009” substitute “article 11(2) of the 2015 Order”.
- 8.** In article 12 (determining the number of renewables obligation certificates to be produced by a designated electricity supplier in order to discharge its renewables obligation)—
 (a) before paragraph (1) insert—
 “(A1) This article applies in respect of an obligation period other than an obligation period in respect of which article 12A applies.”; and
 (b) in paragraphs (1) and (2), for “Where” substitute “Subject to article 12B, where”.
- 9.** After article 12 insert—

(5) S.I. 2015/1947.

(6) S.I. 2015/721, as amended by S.I. 2017/xxx.

“Determining the number of renewables obligation certificates to be produced by a designated electricity supplier in order to discharge its renewables obligation: obligation periods beginning on or after 1st April 2019

12A.—(1) This article applies in respect of an obligation period beginning on or after 1st April 2019.

(2) Where the total obligation for the obligation period is calculation A, the number of renewables obligation certificates that a designated electricity supplier is required to produce in order to discharge its renewables obligation is, for each megawatt hour of relevant electricity that it supplies during that period, equal to—

$$\frac{0.154 \times C}{C - D}.$$

(3) Where the total obligation for the obligation period is calculation B, the number of renewables obligation certificates that a designated electricity supplier is required to produce in order to discharge its renewables obligation is, for each megawatt hour of relevant electricity that it supplies during that period, equal to—

$$\frac{E \times C}{C - D}.$$

(4) For the purposes of paragraphs (2) and (3)—

- (a) C is the estimate made by the Secretary of State under article 8(1) of the 2015 Order of the total amount of electricity likely to be supplied to customers in Great Britain during the obligation period;
- (b) D is the estimate made by the Secretary of State under article 13A(2) of the 2015 Order⁽⁷⁾ of the total amount of EII excluded electricity likely to be supplied to customers in Great Britain during the obligation period; and
- (c) E is equal to—

$$\frac{\textit{Calculation B for the obligation period} \times 0.154}{\textit{Calculation A for the obligation period}}.$$

(5) The Scottish Ministers must publish, by the 1st October preceding the obligation period, the number of renewables obligation certificates that a designated electricity supplier is required to produce in respect of each megawatt hour of relevant electricity that it supplies during that period in order to discharge its renewables obligation for that period.

Determining the number of renewables obligation certificates to be produced by a designated electricity supplier in order to discharge its renewables obligation: special arrangements for obligation periods in respect of which article 12A does not apply

12B.—(1) This article applies in respect of—

- (a) the 2017/18 obligation period; and
- (b) the 2018/19 obligation period.

(2) Subject to paragraph (3), following the publication under article 12(4) of the obligation level for an obligation period in respect of which this article applies, the Scottish Ministers may revise the obligation level in accordance with paragraph (4).

(3) The Scottish Ministers must not revise an obligation level under paragraph (2)—

(7) Article 13A is inserted by S.I. 2017/xxx.

- (a) after the 23rd November falling within the obligation period to which the obligation level relates; or
 - (b) more than once in relation to any obligation period.
- (4) Any revision of an obligation level under paragraph (2) must be calculated in accordance with—
- (a) article 12A(2) where the total obligation for the obligation period is calculation A; or
 - (b) article 12A(3) where the total obligation for the obligation period is calculation B, with the references to “D” in the formulae set out in article 12A(2) and (3) being treated as references to the estimate made by the Secretary of State under article 13B(4) of the 2015 Order⁽⁸⁾ of the total amount of EII excluded electricity likely to be supplied to customers in Great Britain during the obligation period.
- (5) If the Scottish Ministers revise an obligation level under paragraph (2), they must publish the revised obligation level within 7 days.
- (6) In the case of the 2017/18 obligation period—
- (a) if the Scottish Ministers publish a revised obligation level under paragraph (5) on or before 31st October 2017, the number of renewables obligation certificates a designated electricity supplier is required to produce in order to discharge its renewables obligation is—
 - (i) for each megawatt hour of relevant electricity that it supplies during the part of the obligation period beginning with the first day of the obligation period and ending with 31st December 2017, the original obligation level; and
 - (ii) for each megawatt hour of relevant electricity that it supplies during the part of the obligation period beginning with 1st January 2018 and ending with the last day of the obligation period, the revised obligation level;
 - (b) if the Scottish Ministers publish a revised obligation level under paragraph (5) on or after 1st November 2017, the number of renewables obligation certificates a designated electricity supplier is required to produce in order to discharge its renewables obligation is—
 - (i) for each megawatt hour of relevant electricity that it supplies during the part of the obligation period beginning with the first day of the obligation period and ending with the last day of the third month after the publication date, the original obligation level; and
 - (ii) for each megawatt hour of relevant electricity that it supplies during the part of the obligation period beginning with the first day of the fourth month after the publication date and ending with the last day of the obligation period, the revised obligation level.
- (7) In the case of the 2018/19 obligation period—
- (a) if the Scottish Ministers publish a revised obligation level under paragraph (5) on or before 31st December 2017 the number of renewables obligation certificates a designated electricity supplier is required to produce in order to discharge its renewables obligation is, for each megawatt hour of relevant electricity that it supplies during that obligation period, the revised obligation level; and
 - (b) if the Scottish Ministers publish a revised obligation level under paragraph (5) on or after 1st January 2018 the number of renewables obligation certificates

(8) Article 13B is inserted by S.I. 2017/xxx.

a designated electricity supplier is required to produce in order to discharge its renewables obligation is—

- (i) for each megawatt hour of relevant electricity that it supplies during the part of the obligation period beginning with the first day of the obligation period and ending with the last day of the third month after the publication date, the original obligation level; and
- (ii) for each megawatt hour of relevant electricity that it supplies during the part of the obligation period beginning with the first day of the fourth month after the publication date and ending with the last day of the obligation period, the revised obligation level.

(8) In this article—

“2017/18 obligation period” means the obligation period beginning on 1st April 2017;

“2018/19 obligation period” means the obligation period beginning on 1st April 2018;

“obligation level” means the number of renewables obligation certificates that a designated electricity supplier is required to produce in respect of each megawatt hour of electricity that it supplies to customers in Scotland during an obligation period in order to discharge its renewables obligation for that period as determined under article 12(1) or (2);

“original obligation level” means the obligation level as published under article 12(4);

“publication date” means the date of publication of the revised obligation level under paragraph (5); and

“revised obligation level” means the obligation level as revised in accordance with paragraph (4).”.

10. After article 53(5)(b) (provision of information to the Authority) insert—

“(ba) estimates of the amount of EII excluded electricity it has supplied to customers in Scotland during each month of an obligation period—

(i) in respect of which article 12A applies; or

(ii) in respect of which a revised obligation level applies in accordance with article 12B(6) or (7),

by no later than 1st June following that period;

(bb) figures showing the amount of EII excluded electricity it has actually supplied to customers in Scotland during each month of an obligation period—

(i) in respect of which article 12A applies; or

(ii) in respect of which a revised obligation level applies in accordance with article 12B(6) or (7),

by no later than 1st July following that period;”.

11. In paragraph 6(2)(b) of schedule A2 (land criteria)(9), at the beginning insert “the principles”.

Amendment of the Renewables Obligation (Scotland) Amendment Order 2015

12. In article 16 of the Renewables Obligation (Scotland) Amendment Order 2015(10) (savings provision), for “Subject to paragraph (2), the” substitute “The”.

(9) Schedule A2 was inserted by [S.S.I. 2015/384](#).

(10) [S.S.I. 2015/384](#).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish
Statutory Instrument: The Renewables Obligation (Scotland) Amendment Order 2017 No. 432

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Renewables Obligation (Scotland) Order 2009 (“the principal Order”). The principal Order imposes an obligation (“the renewables obligation”) on electricity suppliers to produce a certain number of renewables obligation certificates in respect of the electricity they supply to customers in Scotland during an “obligation period”.

Article 3 inserts new definitions into article 2 of the principal Order, including a definition of “EII excluded electricity”, which comprises electricity supplied to certain industrial users of electricity.

Article 4 amends article 5 of the principal Order, which imposes the renewables obligation.

Articles 5 to 7 make a number of minor amendments to the principal Order.

Article 8 amends article 12 of the principal Order to take account of the insertion of new articles 12A and 12B. Article 12 of the principal Order sets out how the number of renewables obligation certificates to be produced by a supplier in order to discharge its renewables obligation is to be determined.

Article 9 inserts a new article 12A into the principal Order. It contains a calculation for determining, in respect of obligation periods beginning on or after 1st April 2019, the number of renewables obligation certificates to be produced by a supplier. EII excluded electricity is excluded from the calculation.

Article 9 also inserts a new article 12B into the principal Order which contains special arrangements for obligation periods in respect of which new article 12A does not apply. It contains a calculation for determining, in respect of the 2017/18 obligation period and the 2018/19 obligation period, the number of renewables obligation certificates to be produced by suppliers to discharge their renewables obligation. EII excluded electricity is excluded from the calculation.

Article 10 amends article 53(5) of the principal Order to require information regarding the supply of EII excluded electricity to customers in Scotland to be provided to Ofgem.

Articles 11 makes a minor amendment to the principal Order and article 12 makes a minor amendment to the Renewables Obligation (Scotland) Amendment Order 2015.

A full business and regulatory impact assessment of the effect this Order will have on the costs of business and the voluntary sector is available from the Scottish Government Energy Markets Unit, Directorate for Energy and Climate Change, 5 Atlantic Quay, 150 Broomlielaw, Glasgow, G2 8LU.