

EXECUTIVE NOTE

THE RENEWABLES OBLIGATION (SCOTLAND) AMENDMENT ORDER 2009

SSI 2009/276

Introduction

1. Scottish Ministers are committed to the promotion of renewable energy in Scotland; as part of this, they have set a target that 50% of the electricity generated in Scotland (as a proportion of whole demand) should come from renewable sources by 2020, with an interim target of 31% by 2011. This commitment is an important part of a package of initiatives aimed at tackling climate change. The Renewables Obligation (Scotland) Order, or ROS, is a key measure in terms of increasing the amount of renewable electricity generating capacity in Scotland.

Background to the Renewables Obligation

2. The ROS, an affirmative order, was first made in 2002 under powers in the Electricity Act 1989 which were executively devolved (as regards Scotland) to the Scottish Ministers. The Order imposes an obligation on electricity suppliers to provide an increasing percentage of their supply to customers in Scotland from qualifying renewable energy sources.

3. In line with the wishes of the energy sector subject to the Order and those affected by its provisions, the ROS was introduced in almost identical terms to the Renewables Obligation Order 2002, covering England and Wales, which also came into force on April 1 2002. Following reviews of its operation and to accommodate the introduction of a number of changes, the ROS has been revised and replaced or amended each April from 2004 through to 2008. For example, the ROS was amended in 2007 to introduce a system providing higher levels of support to wave and tidal generation located in Scottish waters.

4. The UK Renewables Obligations work currently by awarding generators of electricity from eligible renewable sources one Renewable Obligation Certificate, or ROC, for each MWh (megawatt hour) of electricity they generate. These certificates are a marketable commodity and are bought by licensed electricity suppliers.

5. The market for ROCs is created by imposing on licensed electricity suppliers an obligation to provide an annually increasing proportion of their supply from electricity generated by eligible renewable sources. Suppliers can demonstrate compliance with their Obligation by providing Ofgem with either the requisite number of ROCs – where one ROC is equivalent to one MWh of electricity generated by eligible renewable sources – or by paying the buyout price, or by a combination of the two methods. The buy-out price is a fixed sum payable to Ofgem in lieu of providing ROCs; payments thus made constitute the buy-out fund.

6. The monies paid into the buyout fund are shared between those suppliers who have provided ROCs in proportion to the number of certificates they produce. This means that those suppliers who are unable to produce ROCs reward their competitors, driving the market value of ROCs and thus providing income for renewable generators.

Background to the 2009 Amendment Order

7. The Scottish Parliament approved a new Renewables Obligation Scotland (Order) in March 2009. This Order introduced the concept of “banding” to the Obligation, a system which involves the award of different numbers of ROCs in respect of generation from different renewable technologies. The Executive Note accompanying that Order explains the system in more detail.

8. The Renewables Obligation (Scotland) Amending Order 2009 amends the earlier Order by inserting higher levels of support for “enhanced” wave and tidal generation – that is, generation from wave and tidal power which is located in Scottish waters and which has not received grant support from the Scottish or UK Governments.

9. These enhanced support levels have been subject to a separate State Aid approval request to the European Commission. The receipt of the Commission’s response in April triggers the provision in article 33(h)(i) of the Renewables Obligation (Scotland) Order 2009 – the Commission’s approval for higher levels of support enables Ministers to review the banding provisions for wave and tidal power with a view to securing the long term growth and economic viability of the wave and tidal stream industries in Scotland. The review is based upon the outcomes of a study commissioned by the Scottish Government last year (available [here](#)) looking at the need for additional support for wave and tidal power.

Enabling powers

10. This amendment to the ROS is being made under powers conferred by sections 32 and 32D of the Electricity Act 1989, as amended and introduced by the Energy Act 2008.

Consultation

11. The proposals for higher wave and tidal bands were included within two separate consultations (available [here](#)) which took place between March and December 2008. These proposals were supported by a majority of respondents to both consultations.

European Directive

12. The ROS, in tandem with the ROO, forms an important part of the UK’s compliance with article 3.1 of the European Directive on the promotion of electricity produced from renewable sources ([Directive 2001/77/EC](#)). Article 3.1 provides that member states shall take appropriate steps to encourage greater consumption of renewable electricity in pursuit of national indicative targets.

State Aid

13. A notification was issued to the European Commission in October 2008 regarding the proposed introduction of higher bands for wave and tidal generation located in Scottish waters. The Commission’s formal approval was received in April 2009 ([N 590 / 2008](#)).

Financial Impacts

14. The study referred to in paragraph 9 above found that the maximum impact of higher bands in Scotland for wave and tidal power would, if introduced, amount to less than 0.1% of the average household electricity bill.

Scottish Government Renewables Policy Unit
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