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STATUTORY INSTRUMENTS

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**2001 No. 3914**

**The Electricity from Non-Fossil Fuel  
Sources (Locational Flexibility) Order 2001**

**Modification of section 33 of the Electricity Act 1989**

2.—(1) Section 33 of the Electricity Act 1989<sup>(1)</sup> (as it continues to have effect in England and Wales by virtue of article 11 of the Electricity from Non-Fossil Fuel Sources Saving Arrangements Order 2000<sup>(2)</sup> and notwithstanding its repeal by section 66 of the Utilities Act 2000) shall be modified as set out in paragraph (2).

(2) Subsection (7A) shall be replaced with the following—

“(7A) In this section, references to qualifying arrangements in relation to the nominated person are to any arrangements which—

- (a) are new arrangements, as defined in the Electricity from Non-Fossil Fuel Sources Saving Arrangements Order 2000 (“new arrangements”); or
- (b) would be new arrangements but for the fact that the parties to them have modified the arrangements by changing the location of the generating station which is the subject of the arrangements (“modified new arrangements”), and satisfy the requirements specified in subsection (7B),

and satisfy such other requirements as may be specified in regulations made under this section.

(7B) The requirements mentioned in subsection (7A)(b) are that—

- (a) the new location of the generating station is anywhere within Great Britain, including (unless the relevant NFFO Order requires the generating station to be “on-shore”) any part of the territorial sea of the United Kingdom which is adjacent to Great Britain;
- (b) planning permission and all necessary consents (including any necessary wayleave consents), easements, servitudes and rights to enable the generating station to be constructed and operated at the new location in accordance with and as contemplated by the terms of the modified new arrangements have been obtained;
- (c) no generating station has been built pursuant to the arrangements prior to the change of location;
- (d) the modified new arrangements do not relate to a generating station built at the new location prior to the change of location; and
- (e) evidence of the modified new arrangements has been produced to the Authority.

(7C) The relevant NFFO Order referred to in subsection (7B)(a) is the Order mentioned in subsection (7D) pursuant to which the arrangements were first produced to the Director

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(1) 1989 c. 29. Section 33 has been amended by S.I.1997/1185, the Fossil Fuel Levy Act 1998 (c. 5), S.I. 2000/2727 and S.I. 2001/3268.

(2) S.I. 2000/2727, which has been amended by S.I. 2001/3268.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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General of Electricity Supply (prior to the abolition of that office by section 1(3) of the Utilities Act 2000), in compliance with section 32 of this Act as originally enacted.

(7D) The Orders are—

- (a) the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1994<sup>(3)</sup>;
- (b) the Electricity (N-on-Fossil Fuel Sources) (England and Wales) Order 1997<sup>(4)</sup>; or
- (c) the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1998<sup>(5)</sup>.”.

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<sup>(3)</sup> S.I. 1994/3259, as amended by S.I. 1995/68.

<sup>(4)</sup> S.I. 1997/248.

<sup>(5)</sup> S.I. 1998/2353.