
STATUTORY INSTRUMENTS

2001 No. 3914

ELECTRICITY, ENGLAND AND WALES

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

Made - - - - *6th December 2001*
Laid before Parliament *7th December 2001*
Coming into force - - *30th December 2001*

The Secretary of State, in exercise of the powers conferred on her by section 67 of the Utilities Act 2000⁽¹⁾, hereby makes the following Order:—

Citation, commencement and extent

1.—(1) This Order may be cited as the Electricity from Non-Fossil Fuel Sources (Locational Flexibility) Order 2001 and shall come into force on 30th December 2001.

(2) This Order extends to England and Wales only.

Modification of section 33 of the Electricity Act 1989

2.—(1) Section 33 of the Electricity Act 1989⁽²⁾ (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⁽³⁾ 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

(1) 2000 c. 27.

(2) 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.

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

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 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(4);
- (b) the Electricity (N-on-Fossil Fuel Sources) (England and Wales) Order 1997(5); or
- (c) the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1998(6).”.

Brian Wilson

Minister of State for Industry and Energy,
Department of Trade and Industry

6th December 2001

(4) S.I. [1994/3259](#), as amended by S.I. [1995/68](#).

(5) S.I. [1997/248](#).

(6) S.I. [1998/2353](#).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order modifies section 33 of the Electricity Act 1989 as it has effect in England and Wales. It relates to arrangements made by public electricity suppliers under section 32 of the Electricity Act 1989 (as originally enacted) relating to the securing of generating capacity from non-fossil fuel generating stations. The Order allows such arrangements to continue to attract the fossil fuel levy in circumstances where the location of the generating station has changed.

A regulatory impact assessment is available and can be obtained from the Energy Policy Directorate, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET. Copies have been placed in the libraries of both Houses of Parliament.