

2008 No. 287

ELECTRICITY

The Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration Regulations (Northern Ireland) 2008

Made - - - - *30th June 2008*

Coming into operation - *22nd September 2008*

The Department of Enterprise, Trade and Investment, being a Department designated (a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to regulation of the electricity sector, makes the following Regulations in exercise of the powers conferred upon it by that section:

Citation, commencement and extent

1. These Regulations may be cited as the Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration Regulations (Northern Ireland) 2008 and shall come into operation on 22 September 2008.

Interpretation

2.—(1) For the purposes of these Regulations—

“the Cogeneration Directive” means Directive 2004/8/EC(c) of the European Parliament and of the Council on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC(d);

“the competent authority” shall be construed in accordance with regulation 3(2);

“CHPQA” means the Combined Heat and Power Quality Assurance programme, see the CHPQA Standard and accompanying CHPQA guidance notes. CHPQA standard, Issue 2, November 2007 published by the Department of Environment, Food and Rural Affairs(e)

“CHPGO” means a guarantee of origin of electricity produced from high-efficiency cogeneration;

“CHPGO holder” means the person to whom the CHPGO is issued or transferred;

“guarantee of origin” means, except in relation to paragraphs (3) to (5) of regulation 10, a certificate issued by the competent authority certifying that the electricity in respect of which the certificate is issued was electricity produced from high-efficiency cogeneration; and

(a) S.I. 1998/745

(b) 1972 c. 68 (c.46)

(c) OJ L 52,21.2.2004, p.50.

(d) OJ L 167, 22.6 1992, p.17

(e) Published by the Department for the Environment, Food and Rural Affairs and prepared in consultation with other Government Departments, as well as the Scottish Executive, the National Assembly for Wales, and the Northern Ireland Department of Enterprise, Trade and Investment. Available from www.chpqa.com or the CHPQA Administrator: telephone 0870v190 6196 or email chpqainfo@chpqa.com

“high-efficiency cogeneration” means cogeneration of electricity that meets the criteria of Annex III of the Cogeneration Directive.

(2) Expressions used in these Regulations and which are also used in the Cogeneration Directive have the meaning they bear in that Directive.

(3) The Interpretation Act (Northern Ireland) 1954(a) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Issue of CHPGOs and the competent authority

3.—(1) CHPGOs shall be issued by the competent authority in accordance with these Regulations.

(2) The Department of Enterprise, Trade and Investment is the competent authority and is so designated for the purposes of Article 5(2) of the Cogeneration Directive.

Request to issue CHPGOs

4.—(1) A producer of electricity may request a CHPGO from the competent authority.

(2) A request may not be made for a CHPGO under paragraph (1) where the electricity is produced outside Northern Ireland.

(3) A request under paragraph (1) shall not be considered duly made until the competent authority is provided with all the information specified in Schedule 1 and the statement required under paragraph (4).

(4) The person making a request under paragraph (1) shall provide with the request a statement that in respect of the electricity which is the subject of the request—

- (a) he is entitled to the issue of a CHPGO under these Regulation;
- (b) he has not made and does not intend to make a request for a CHPGO in respect of the same electricity in another Member State of Great Britain; and
- (c) he has not made and does not intend to make another request under paragraph (1) in respect of the same electricity.

Issue and content of CHPGOs

5.—(1) Where the competent authority—

- (a) Receives a request made in accordance with regulation 4(1); and
- (b) Is satisfied that the electricity to which the request relates was produced from high-efficiency cogeneration; and
- (c) Receives any charge payable under regulation 9;

The authority shall issue a CHPGO in respect of that electricity.

(2) A CHPGO shall be issued to the person making the request for it under Regulation 4(1) or such other person as that person may specify in the request.

(3) A CHPGO—

- (a) shall contain the matters set out in Schedule 2; and
- (b) may contain such other matters as the competent authority considers appropriate.

(4) Where a CHPGO has been issued in respect of any electricity and not revoked, a further CHPGO in respect of the same electricity shall not be issued by the competent authority.

(a) 1954 c.33 (N.I.)

Replacement CHPGOs

6.—(1) The CHPGO holder may request the competent authority to review the issue of the CHPGO and to issue a replacement CHPGO if—

- (a) the CHPGO holder believes that the CHPGO is inaccurate; and
- (b) the request is made in writing to the competent authority within 21 days of the issue of the CHPGO.

(2) A request under paragraph (1) shall—

- (a) state the particulars of the CHPGO which the CHPGO holder believes are inaccurate, and
- (b) provide all necessary information in support of that request.

(3) The competent authority shall acknowledge to the CHPGO holder the receipt of a request under paragraph (1) within seven days of receipt.

(4) The competent authority shall (on the basis of the information provided in a request under paragraph (1))—

(5) The 40 day period may be extended if so agreed by the CHPGO holder and the competent authority.

(6) If the competent authority decides—

- (a) to revoke the CHPGO, it shall give notice under regulation 8(2);
- (b) not to revoke the CHPGO, it shall as soon as possible give written notice to the CHPGO holder, with reasons for that decision; and
- (c) to issue a replacement CHPGO, it shall do so as soon as possible.

Transfer of CHPGOs

7.—(1) If the CHPGO holder no longer operates the plant to which the CHPGO relates, he may request the competent authority to transfer the CHPGO to the person who does operate that plant.

(2) If the competent authority receives—

- (a) a written request for a transfer referred to in paragraph (1);
- (b) satisfactory evidence of the matters referred to in that paragraph; and
- (c) any charge payable under regulation 9;

it shall effect the transfer of the CHPGO.

Revocation of CHPGOs

8.—(1) The competent authority shall revoke a CHPGO where—

- (a) it decides that the CHPGO is inaccurate;
- (b) it is satisfied that the information provided under regulation 4 in connection with the request for the CHPGO is incorrect in a material particular; or
- (c) it is otherwise satisfied that the CHPGO should not have been issued, or was issued to the wrong person.

(2) Where the competent authority revokes a CHPGO, it shall as soon as possible give written notice to the CHPGO holder.

(3) A CHPGO that is revoked—

- (a) under sub-paragraph (1)(a), shall be treated as if it had not been issued;
- (b) under sub-paragraphs (1)(b) or (c), shall cease to have effect from the date that notice is given under paragraph (2).

Charging

9.—(1) The competent authority may require the payment of a charge from—

- (a) A producer of electricity who requests a CHPGO under Regulation 4; or
- (b) A CHPGO holder who requests a transfer of a CHPGO under Regulation 8.

(2) A charge payable under paragraph (1) shall not exceed the costs of the competent authority in complying with the request to which it relates.

(3) The competent authority shall not be required to issue or transfer a CHPGO until the charge is paid.

Recognition of CHPGOs

10.—(1) A public authority shall recognise a CHPGO issued by any competent authority as proof of the matters referred to in Article 5(5) of the Cogeneration Directive.

(2) For the purposes of the regulation a public authority means any Northern Ireland Minister, government department, public body of any description or any person holding public office.

(3) Subject to paragraph (4), a public authority shall recognise, as proof of the matters referred to in paragraphs 4 to 9 of Schedule 2, a CHPGO which has been issued in accordance with Article 5 of that Directive outside Northern Ireland.

(4) A public authority is not required to recognise, to the extent referred to in paragraph (3), a CHPGO issued outside Northern Ireland if—

- (a) it has been requested to refuse or withdraw such recognition by the authority which issued or supervised the issue of the CHPGO; or
- (b) on the basis of objective, transparent and non-discriminatory criteria, it is satisfied that the CHPGO should not have been issued or that refusal of recognition is necessary for the prevention of fraud.

(5) Where a public authority has refused to recognise a CHPGO issued in another Member State, it shall recognise that CHPGO where the Commission of the European Communities requires such recognition under Article 5(6) of the Cogeneration Directive.

(6) Nothing in this regulation shall require a public authority to satisfy itself that a CHPGO issued in another Member State or Great Britain has been properly issued.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 30 June 2008



Jenny Pyper
A senior officer of the
Department of Enterprise, Trade and Investment

SCHEDULE 1

Regulation 4(3)

Information to be supplied with a request for a CHPGO

1. The name and address and, if a company, the registered number, of the person requesting the issue of the CHPGO.
2. Where the person signing the statement required under regulation 4(4) is not the person making the request, the name and address of the person signing the statement.
3. Whether the person requesting the issue of the CHPGO is the producer of the electricity in respect of which the CHPGO is requested and, if not, the name and address and, if a company the registered number, of the producer.
4. The beginning and end of the period covered by the request.
5. The place where the electricity in respect of which the CHPGO is requested was produced, and the name, if any, of the plant.
6. The quantity of electricity in respect of which the CHPGO is requested, together with the total quantity of electricity produced by the plant during the period covered by the request.
7. The information relating to the plant which a person would be required to provide if they requested a certificate under CHPQA in relation to that plant.
8. The primary fuel source from which the electricity was produced.
9. The heat to power ratio of the plant producing it.
10. The amount of useful heat utilised during the period covered by the request.
11. Such further information as the competent authority may, in the particular circumstances of the case, reasonably require
 - (a) for the purposes of ascertaining the accuracy of the information required to be provided under paragraphs 1 to 10; or
 - (b) to enable the competent authority to be satisfied that any electricity produced is from high-efficiency cogeneration.

SCHEDULE 2

Regulation 5(3)

Information to be contained in a CHPGO

1. The name and address and, if a company, the registered number, of the person to whom the CHPGO has been, or was originally issued.
2. The date of issued of the CHPGO.
3. An identifier.
4. The beginning and end of the period to which the CHPGO relates.
5. The place where the electricity to which the CHPGO relates was produced and the name, if any, of the plant.
6. The lower calorific value of the fuel source from which the electricity was produced.
7. The use of the heat generated together with the electricity produced during the period to which the CHPGO relates.
8. The quantity of electricity from high-efficiency produced during the period to which the CHPGO relates.
9. The primary energy savings calculated in accordance with Annex III(b) of the Cogeneration Directive.
10. The primary fuel source from which the electricity was produced.
11. The quantity of fuel from which the electricity was produced.
12. The amount of heat utilised during the period to which the CHPGO relates.
13. The achieved power efficiency.
14. The achieved overall efficiency.
15. The total quantity of electricity generated over the period to which the CHPGO relates.

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations implement as respects Northern Ireland Article 5 of the Directive 2004/8/EC (OJ L 52, 21.2.2004, p.50) of the European Parliament and of the council on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC (OJ L 167, 22.6.1992, p.17). That article provides for the issue of guarantees of origin of electricity from high-efficiency cogeneration. The cogeneration of electricity is more commonly referred to in the United Kingdom as electricity produced from combined heat and power or CHP.

Regulation 3 provides that the Department of Enterprise, Trade and Investment, as the competent authority, is the issuer of guarantees of origin of electricity produced from high-efficiency cogeneration.

Regulation 4 provides for the procedure that a producer of electricity must follow to obtain a guarantee, Schedule 1 sets out the information that a producer must provide to the competent authority. Paragraph 7 of that Schedule refers to the Combined Heat and Power Quality Assurance (CHPQA) programme. The CHPQA Standard, Issue 2, November 2007 published by the Department for Environment, Food and Rural Affairs. It may be obtained from www.chpqa.com. Or the CHPQA administrator telephone 0870 190 6196 and E-mail: chpqa-info@chpqa.com

Regulation 5 provides for the issue and content of a guarantee. Schedule 2 specifies the information to be included in a guarantee of origin.

Regulation 6 sets out when a guarantee may be replaced.

Regulation 7 provides for the transfer of a guarantee.

Regulation 8 sets out when and how a guarantee may be revoked.

Regulation 9 provides that a charge may be made for the issue or transfer of a guarantee.

Regulation 10 provides for the recognition of guarantees, including those issued by competent authorities outside Northern Ireland.

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