
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2004 No.

The Renewables Obligation (Scotland) Order 2004

Interpretation

2.—(1) In this Order—

“the Act” means the Electricity Act 1989;

“the Authority” means the Gas and Electricity Markets Authority;

“advanced conversion technologies” means gasification, pyrolysis or anaerobic digestion, or any combination thereof;

“anaerobic digestion” means the bacterial fermentation of organic material in the absence of free oxygen;

“banking day” means a day on which banks are generally open in the City of London excluding Saturdays or Sundays;

“biomass” means fuel used in a generating station of which at least 98 per cent of the energy content (measured over a period of one month) is derived from plant or animal matter or substances derived directly or indirectly therefrom (whether or not such matter or substances are waste) and includes agricultural, forestry or wood wastes or residues, sewage and energy crops (provided that such plant or animal matter is not or is not derived directly or indirectly from fossil fuel);

“commissioned” means the completion of a process of such procedures and tests as from time to time constitute usual industry standards and practices for commissioning a generating station in order to demonstrate that the generating station is capable of commercial operation;

“connected person”, in relation to an owner or operator of a generating station, or a party to a qualifying arrangement, means a person connected to the operator within the meaning of section 839 of the Income and Corporation Taxes Act 1988⁽¹⁾;

“declared net capacity” means the highest generation of electricity (calculated by adding together the highest generation of electricity at the main terminals of each alternator and dynamo) which, on the assumption that the source of power is available uninterruptedly, can be maintained indefinitely without causing damage to the plant less so much of that electricity as is consumed by the plant;

“designated electricity supplier” means any electricity supplier supplying electricity in Scotland;

“eligible renewable sources” has the meaning given to it in article 8;

“energy content” of a fuel means the gross calorific value of that fuel (as expressed by weight or by volume) multiplied by the weight or volume of that fuel;

“energy crops” means a plant crop planted after 31st December 1989 and grown primarily for the purpose of being used as fuel;

(1) 1988 c. 1. Section 839 was amended by the Finance Act 1995 (c. 4), section 74 and Schedule 17, paragraph 20.

“gasification” means the substoichiometric oxidation or steam reformation of a substance to produce a gaseous mixture containing two or all of the following: oxides of carbon, methane and hydrogen;

“hydro generating station” means a generating station which is wholly or mainly driven by water (other than a generating station driven by tidal flows, waves, ocean currents or geothermal sources) and the “generating station” extends to all turbines supplied by the same civil works, except that any turbine driven by a compensation flow supplied by those civil works where there is a statutory obligation to maintain such compensation flow in a natural water course shall be regarded as a separate hydro generating station;

“interconnector” means the electric lines, electrical plant and meters operated solely for the transfer of electricity between the transmission and distribution network in Great Britain and the transmission and distribution network in another country or Northern Ireland;

“large hydro generating station” means a hydro generating station which has, or has had at any time since 1st April 2002, a declared net capacity of more than 20 megawatts;

“micro hydro generating station” means a hydro generating station which—

- (a) has a declared net capacity of 1.25 megawatts or less;
- (b) has always been in private ownership and operation; and
- (c) has never generated electricity under an arrangement which has ever been a qualifying arrangement as defined in section 33 of the Act (as that section was originally enacted);

“nominated person” has the same meaning in this Order as is given to it in the Electricity from Non-Fossil Fuel Sources Saving Arrangements Order 2000(2);

“Non-Fossil Fuel Orders” means any of the following orders: the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1994(3); the Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1994(4); the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1997(5);

the Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1997(6); the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1998(7); and the Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1999(8);

“obligation period” means any of the periods referred to in the first column of Schedule 1;

“on land” in relation to the location of a generating station means wholly or partly on land above mean high water level;

“particulars”, in relation to a SROC, has the meaning given to it in paragraph 2 of Schedule 2;

“plant” with reference to crops or plant matter, includes shrubs and trees;

“pyrolysis” means the thermal degradation of a substance in the absence of any oxidising agent (other than that which forms part of the substance itself) to produce char and one or both of gas and liquid;

“qualifying arrangement” means (except in the definition of “micro hydro generating station”) an arrangement which was originally made pursuant to a Non-Fossil Fuel Order (including any replacement of such an arrangement where that replacement was made pursuant to an order made under section 67 of the Utilities Act 2000);

“Register” has the meaning given to it in article 4(1);

(2) S.I.2000/2727.

(3) S.I. 1994/3259 as amended by S.I. 1995/68.

(4) S.I. 1994/3275.

(5) S.I. 1997/248.

(6) S.I. 1997/799.

(7) S.I. 1998/2353.

(8) S.I. 1999/439.

“registered holder” has the meaning given to it in paragraph 2 of Schedule 2;
“renewables obligation” has the meaning given to it in article 3;
“replacement SROC” means a SROC issued in accordance with article 5(3)(b) and (4);
“SROC” means a certificate issued by the Authority under section 32B of the Act and pursuant to this Order and, save where otherwise provided or where the context otherwise requires, includes a replacement SROC;
“SROC sequence number” has the meaning given to it in article 4(9);
“specified day”, in relation to an obligation period, means the 1st October immediately following it;
“transmission and distribution network” means any transmission system or any distribution system or both (as the terms are used in the definitions of “transmit” and “distribute” respectively in section 4(4) of the Act⁽⁹⁾ in Great Britain or any equivalent systems in another country or in Northern Ireland);
“waste” has the meaning given to it in section 75(2) of the Environmental Protection Act 1990⁽¹⁰⁾ but does not include gas derived from landfill sites or gas produced from the treatment of sewage; and
the expression “the United Kingdom” includes the territorial sea of the United Kingdom and waters in any area designated under section 1(7) of the Continental Shelf Act 1964⁽¹¹⁾.

(2) For the purposes of the definition of “hydro generating station”, the “civil works” which are to be regarded as supplying a particular turbine (“the relevant turbine”) are all the man-made weirs, man-made structures and man-made works for holding water which are located on the inlet side of the relevant turbine, but excluding any such weirs, structures or works which supply another turbine before water is supplied to the weirs, structures and works which supply the relevant turbine.

(3) Any reference in this Order to the provision of information “in writing” shall include the provision of such information by either electronic mail or facsimile or similar means which are capable of producing a document containing the text of any communication.

(4) In the case of a generating station with a declared net capacity of 50 kilowatts or less the reference to “month” in each place where it occurs in articles 2(1) (definition of “biomass”), 3(4), 4, 5, 8 and 9 and Schedule 2 shall be taken to be a reference to “obligation period”, subject to the following exceptions:—

- (a) in article 4(13)(a) the references to “the second month” and to “the said second month” shall remain unchanged;
- (b) in article 4(14) the words “of each month” shall be omitted, and the reference to “the end of the second month” shall remain unchanged; and
- (c) in paragraph 2(b)(i) of Schedule 2 the words “the month and year” shall be replaced by “the obligation period”.

⁽⁹⁾ Section 4(4) was amended by section 28 of the Utilities Act 2000 (c. 27).

⁽¹⁰⁾ 1990 c. 43. Section 75(2) was amended by section 120 and paragraph 88 of Schedule 22 to the Environment Act 1995 (c. 25).

⁽¹¹⁾ 1964 c. 29. Section 1(7) of the Continental Shelf Act 1964 was amended by the Oil and Gas (Enterprise) Act 1982 (c. 23), section 37 and Schedule 3, paragraph 1.