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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2007 No.**

**The Renewables Obligation (Scotland) Order 2007**

**PART 3**

**Electricity from Renewable Energy Sources**

**Eligible renewable sources: general**

6.—(1) Subject to article 10, electricity shall be considered to have been generated from eligible renewable sources to the extent that it has been generated from renewable sources and provided that it has not been generated by an excluded generating station as specified in this article and articles 7 and 8.

(2) The following shall be excluded generating stations—

- (a) large hydro generating stations except those first commissioned after 1st April 2002;
- (b) subject to paragraphs (3) and (4), generating stations (other than micro hydro generating stations) which were first commissioned before 1st January 1990 and where the main components have not been renewed since 31st December 1989 as described in paragraph (5);
- (c) generating stations located outside the United Kingdom, except generating stations which are not located on land and which are directly and exclusively connected to a transmission or distribution network located in Northern Ireland; and
- (d) generating stations generating electricity under the arrangements or additional arrangements referred to in article 35(1) of the Northern Ireland Electricity Order.

(3) A generating station shall not be an excluded generating station by virtue of paragraph (2)(b) in any month during which it is fuelled partly by fossil fuel and partly by biomass (and by no other fuel).

(4) A generating station shall not be an excluded generating station by virtue of paragraph (2)(b) in any month during which it is fuelled by biomass, if—

- (a) prior to 1st April 2003 at least 75 per cent of the energy content of the fuel by which it was fuelled was derived from fossil fuel; and
- (b) during no month (being a month after March 2004) after the first month during which it was fuelled wholly by biomass has the energy content of the fuel by which it was fuelled been derived as to more than 75 per cent from fossil fuel.

(5) For the purposes of paragraph (2)(b), the main components of a generating station shall only be regarded as having been renewed since 31st December 1989 where—

- (a) in the case of a hydro generating station, the following parts have been installed in the generating station after 31st December 1989 and were not used for the purpose of electricity generation prior to that date—
  - (i) either all the turbine runners or all the turbine blades or the propeller; and
  - (ii) either all the inlet guide vanes or all the inlet guide nozzles; or

- (b) in the case of any other generating station all the boilers and turbines (driven by any means including wind, water, steam or gas) have been installed in the generating station after 31st December 1989 and were not used for the purpose of electricity generation prior to that date.

**Eligible renewable sources: qualifying arrangement**

7.—(1) Paragraph (2) applies where—

- (a) a qualifying arrangement (“the applicable qualifying arrangement”) provided for the building of a generating station at a specified location (“the location”);
- (b) the applicable qualifying arrangement was terminated due to the operator of the generating station to which it applied having committed an unremedied breach of it; and
- (c) the last period in the tables contained in Schedule 1 to the Non-Fossil Fuel Order which relates to the applicable qualifying arrangement has not expired.

(2) Where this paragraph applies, a generating station—

- (a) which is situated at the location; and
- (b) to which the applicable qualifying arrangement applied at the time it was commissioned, or which is owned or operated by a person who was a party to the applicable qualifying arrangement (or who is a connected person or a linked person in relation to any such party), shall be an excluded generating station.

(3) Paragraph (4) applies where an extant qualifying arrangement (“the applicable qualifying arrangement”) provides for the building of a generating station (“the specified station”) at a specified location (“the location”) and the specified station has not been commissioned.

(4) Where this paragraph applies, a generating station—

- (a) which is situated at the location; and
- (b) which is owned or operated by a person who is a party to the applicable qualifying arrangement (or is a connected person or a linked person in relation to any such party),

shall be an excluded generating station.

(5) Paragraphs (2) and (4) shall not apply to a generating station which during the month in question, generates only electricity which is sold pursuant to another extant qualifying arrangement.

(6) In paragraphs (2) and (4), in relation to a person who is a party to the applicable qualifying arrangement (“the first person”), another person (“the second person”) is a “linked person” where the second person has given or has arranged to give or has ensured or has arranged to ensure that the first person is given a financial or other inducement relating to any right or interest in, or in respect of, the construction or operation of a generating station at the location.

(7) The references in paragraph (6) to the first person and the second person shall include any person who is a connected person in relation to either of them.

(8) For the purposes of this article, a generating station shall be regarded as being situated at a location provided for by an extant qualifying arrangement whether it is situated wholly or partly at that location.

**Eligible renewable sources: other fuels**

8.—(1) A generating station shall be an excluded generating station in any month during which it is fuelled wholly or partly by waste unless—

- (a) the only waste or wastes by which it is fuelled in that month is or are biomass or liquids comprised wholly or mainly of hydrocarbon compounds;

- (b) all the waste by which it is fuelled in that month which is not biomass has first been manufactured into fuel which is in either a gaseous or liquid form (or both) by means of plant and equipment using advanced conversion technologies only; or
- (c) the generating station is a qualifying combined heat and power generating station.

(2) A generating station shall be an excluded generating station in any month during which it is fuelled partly by fossil fuel and partly by another fuel (or fuels) other than biomass.

(3) After 31st March 2016 a generating station shall be an excluded generating station in any month during which it is fuelled partly by fossil fuel and partly by biomass (and by no other fuel).

(4) A generating station shall be an excluded generating station in any month during which it is fuelled wholly or partly by peat.

(5) A generating station shall be an excluded generating station in any month during which it is fuelled wholly or partly by any substance derived directly or indirectly from any of the substances referred to in article 9(1)(a)(i) unless that substance is a substance falling within article 9(1)(a)(ii) or it is waste or a component of biomass.

(6) A generating station shall be an excluded generating station in any month during which it is fuelled wholly or partly by waste where all the waste which is neither biomass nor liquids comprised wholly or mainly of hydrocarbon compounds is or is derived directly or indirectly from one or more of the substances referred to in article 9(1)(a)(i).

#### **Eligible renewable sources: supplemental**

9.—(1) In this article and articles 6, 8 and 15 and in Schedule 3—

- (a) “fossil fuel” means—
  - (i) coal, lignite, natural gas (as defined in the Energy Act 1976(1)) or crude liquid petroleum; and
  - (ii) anything which is derived directly or indirectly from any of the substances referred to in paragraph (i) which (except as mentioned below) is created for the purpose of being used as a fuel,  
other than anything (not being a liquid comprised wholly or mainly of hydrocarbon compounds), which is or is derived directly or indirectly from any of the substances referred to in paragraph (i), which is waste or a component of biomass; and for the purposes of paragraph (ii) a liquid comprised wholly or mainly of hydrocarbon compounds need not be created for the purpose of being used as a fuel;
- (b) “waste” is to be regarded as including anything derived directly or indirectly from waste (as that term is defined in article 2(1)); and
- (c) “standby generation” means the generation of electricity by equipment which is not used frequently or regularly to generate electricity and where all the electricity generated by that equipment is used by the generating station.

(2) In articles 6, 8 and 15 and in Schedule 3, in determining whether a generating station is fuelled by a particular fuel regard is to be had only to fuel which it uses to generate electricity.

(3) For the purposes of articles 6, 8 and 15 and Schedule 3, fossil fuel or waste which a generating station uses for—

- (a) the ignition of gases of low or variable calorific value; or
- (b) the heating of the combustion system to its normal operating temperature or the maintenance of that temperature; or

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(1) 1976 c. 76.

- (c) emission control; or
- (d) standby generation or the testing of standby generation capacity,

shall only be treated as comprising fuel used to generate electricity in any month in which the combined energy content of the fossil fuel or waste, or both, which the generating station uses for those purposes exceeds 10 per cent of the energy content of the energy sources by which it is fuelled.

### **Calculation of amount of electricity generated from eligible renewable sources**

**10.**—(1) Subject to paragraphs (3) and (5), the amount of electricity generated by a generating station which is to be regarded as having been generated from eligible renewable sources in any month is to be calculated by multiplying the renewable output of that generating station in that month by a proportion which is equal to the proportion which the net output of that generating station in that month bears to the gross output of that generating station in that month.

- (2) For the purposes of the calculation referred to in paragraph (1)—
  - (a) subject to paragraph (6), “the renewable output” is such amount as is obtained by deducting from the gross output of that generating station in that month the amount of electricity which has been generated in that month from fossil fuel; and
  - (b) “the net output” is such amount as is obtained by deducting from the gross output of that generating station in that month the input electricity of that generating station in that month.

(3) In the case of a generating station fuelled wholly or partly by biomass, 10 per cent of the electricity generated from biomass in any month shall be treated as having been generated from fossil fuel unless the operator of the generating station satisfies the Authority that during that month a lesser percentage of the energy content of the biomass derives from fossil fuel, in which case that lesser percentage shall be treated as having been generated from fossil fuel.

(4) In calculating “the renewable output” in the case of a generating station fuelled partly by fossil fuel and partly by another fuel or fuels the amount of electricity which has been generated from fossil fuel is to be determined according to the respective energy contents of the fuels used.

(5) Where the operator of a generating station (or, where SROCs relating in whole or in part to electricity generated by that generating station are issued to an agent by virtue of article 17, that agent and not the operator) satisfies the Authority that in any month the input electricity of the generating station does not exceed 0.5 per cent of its gross output, no input electricity shall be deducted from the gross output in calculating the net output of the generating station for that month and, accordingly, the net output shall be equal to the gross output in that month.

(6) In the case of a qualifying combined heat and power generating station, the renewable output shall be such amount as is obtained by—

- (a) deducting from the gross output of that generating station in that month the amount of electricity which has been generated in that month from fossil fuel; and
- (b) multiplying the figure resulting from the calculation in sub-paragraph (a) by the relevant proportion.

(7) In this article—

- (a) “fossil fuel” has the meaning given to it by section 32 of the Act except that the expression also includes any substance which is derived directly or indirectly from fossil fuel (whether or not such substance is waste or a component of biomass);
- (b) “gross output” means, in relation to any month, the total amount of electricity generated by a generating station in that month;
- (c) “input electricity” means, in relation to any month, all the electricity used by a generating station in that month (whether or not it is generated by the generating station and whether

or not it is used while the generating station is generating electricity) for a purpose directly relating to the operation of that generating station, including fuel handling, fuel preparation, maintenance and pumping water; and

- (d) in the case of a generating station fuelled wholly or partly by hydrogen (not being fossil fuel), “input electricity” also includes any electricity in respect of which SROCs are or have been issued or which was not generated from eligible renewable sources that is used to produce the hydrogen by which that station is fuelled, regardless of where or by whom the hydrogen is produced;
- (e) “qualifying power output” and “total power output” have the meanings given to them in CHPQA; and
- (f) “relevant proportion” means a proportion which is equal to the proportion which the qualifying power output of the qualifying combined heat and power generating station bears to the total power output of that generating station.