

EXECUTIVE NOTE

DRAFT : The Renewables Obligation (Scotland) Amendment Order 2008

Introduction

1. Scottish Ministers are committed to the promotion of renewable energy in Scotland; as part of this, they have set a target that 50% of the electricity generated in Scotland (as a proportion of whole demand) should come from renewable sources by 2020, with an interim target of 31% by 2011. This commitment is an important part of a package of initiatives aimed at tackling climate change. The Renewables Obligation (Scotland) Order, or ROS, is a key measure in terms of increasing the amount of renewable generating capacity in Scotland.

Content of the Order

2. The ROS, an affirmative order, was first made in 2002 under powers in the Electricity Act 1989 which have been executively devolved (as regards Scotland) to the Scottish Ministers. It imposes an obligation on electricity suppliers to provide an increasing percentage of that supply from qualifying renewable energy sources. In line with agreed policy and the wishes of the relevant electricity market stakeholders, it was designed in almost identical terms to the Renewables Obligation Order (the ROO) covering England and Wales, which also came into force on April 1 2002. Following reviews of its operation and to accommodate the introduction of a number of changes, the ROS has been revised and replaced each April from 2004 through to 2007.

3. The ROS extends to Scotland only, and has an effect on all licensed electricity suppliers supplying electricity in Scotland. The amount of each such electricity supplier's renewables obligation is calculated by reference to its total supplies of electricity to customers in Scotland during the relevant obligation period. However, such an electricity supplier can satisfy its obligation by producing evidence to the Authority (Ofgem, the industry regulator) showing that it (or another electricity supplier) has supplied electricity generated from renewable sources to customers in Great Britain. Thus, in theory, an electricity supplier with an obligation under the ROS can satisfy all its obligation by supplying electricity generated from renewable sources to customers in England and Wales, or by producing evidence in the form of certificates that another electricity supplier has done so on its behalf. An electricity supplier can also discharge its renewables obligation by making a payment into the buy-out fund, by producing certificates (NIROCs) issued by the Northern Ireland Authority or by producing certificates concerning the supply of electricity to customers in Northern Ireland.

4. Regardless of where the electricity is supplied to customers, it can be generated anywhere within "the United Kingdom" as that term is defined in the order. The operator of a generating station situated in the United Kingdom has a free choice as to whether to apply for certificates issued by the Authority under the ROS or under the equivalent England and Wales Order. In the ROS, references to certificates issued under section 32B of the Electricity Act cover certificates issued under either that Order or its Northern Ireland or England and Wales equivalent, while references to SROCs relate only to certificates issued under the ROS.

Enabling powers

5. The ROS is being amended under powers conferred by sections 32 and 32A of the Electricity Act 1989, as amended by the Utilities Act 2000, the Energy Act 2004 and the Climate Change and Sustainable Energy Act 2006. The powers were executively devolved to the Scottish Ministers as regards Scotland by means of Orders under the Scotland Act 1998.

Consultation

6. Prior to its introduction in April 2002, the ROS was the subject of two consultations, the first between November 2000 and February 2001, and a formal statutory consultation between August and October 2001. Statutory consultations also preceded the introduction of the revised ROS Orders from 2004. A fresh consultation (available [here](#)) took place between September and December 2007 on a minor adjustment to the Marine Supply Obligation (MSO) introduced in April 2007. The MSO enables the introduction of a separate Obligation on suppliers to source output from wave or tidal sources located in Scotland.

European Directive

7. The ROS, in tandem with the ROO, forms an important part of the UK's compliance with article 3.1 of the European Directive on the promotion of electricity produced from renewable sources ([Directive 2001/77/EC](#)). Article 3.1 provides that member states shall take appropriate steps to encourage greater consumption of renewable electricity in pursuit of national indicative targets. A copy of the Directive is attached to this Executive Note.

State Aids

8. All UK Renewables Obligation Orders require State Aid clearance as the recycling of buy-out funds to compliant suppliers is deemed by the Commission to constitute a State Aid. The Commission has approved the Scottish Government's introduction of a Marine Supply Obligation.

Financial Impacts

9. The ROS creates small additional costs for electricity suppliers, which are then passed through to industrial, business and domestic consumers.

**Scottish Government Renewables and Consents Policy Unit
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