

## **POLICY NOTE**

### **DRAFT : THE RENEWABLES OBLIGATION (SCOTLAND) AMENDMENT ORDER 2013**

**SSI 2013/XXX**

#### **Introduction**

1. Scottish Ministers are committed to the promotion of renewable energy in Scotland; as part of this, they have set a target that the equivalent of 100% of the electricity generated in Scotland (as a proportion of gross consumption) 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 electricity generating capacity in Scotland.

#### **Background to the Renewables Obligation**

2. The ROS, an affirmative order, was first made in 2002 under powers in the Electricity Act 1989 which were executively devolved (as regards Scotland) to the Scottish Ministers. The Order imposes an obligation on electricity suppliers to provide an increasing percentage of their supply to customers in Scotland from qualifying renewable energy sources.

3. In line with the wishes of the energy sector subject to the Order and those affected by its provisions, the ROS was introduced in almost identical terms to the Renewables Obligation Order 2002 (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 or amended each April from 2004 through to 2010. For example, the ROS was amended in 2007 to introduce a system providing higher levels of support to wave and tidal generation located in Scottish waters.

4. The UK Renewables Obligations work by awarding to generators of electricity from eligible renewable sources a number of Renewable Obligation Certificates, or ROCs, for each MWh (megawatt hour) of electricity they generate. "Banding" of support, allowing different technologies to receive different levels of support, was introduced in April 2009 to drive greater and more rapid deployment of renewable electricity generation. This means that support levels vary depending on the way in which the renewable electricity has been generated (wind, solar PV etc) and depending on when the generating station was accredited under the ROS, or when additional generating capacity was added to the station. ROCs are a marketable commodity, and are bought by licensed electricity suppliers.

5. The market for ROCs is created by imposing an annual and increasing obligation on licensed electricity suppliers to provide a number of ROCs. Suppliers can demonstrate compliance with their Obligation by providing Ofgem with either the requisite number of ROCs, or by paying the buyout price, or by a combination of the two methods. The buy-out price is a fixed sum payable to Ofgem in lieu of providing ROCs; payments thus made constitute the buy-out fund. The monies paid into the buyout fund are shared between those suppliers who have provided ROCs, and in proportion to the number of certificates they produce. This means that those suppliers who are unable to produce ROCs effectively reward their competitors, driving the market value of ROCs and thus providing income for renewable generators.

## The 2013 Amendment Order

6. A review of the legislation and the technology bands took place between October 2011 and November 2012. As a result of that review, this amendment Order introduces two changes which will apply to Scotland only, i.e. they will not be mirrored as part of the other UK amendment Orders. The first of these is a restriction on the support for electricity generated by certain types of wood fuelled biomass station. Article 7 introduces a new article 22C to the 2009 Order. Its effect is that wood fuelled biomass stations with an installed capacity greater than 15 megawatts will not receive any ROCs for their electricity unless those stations are accredited under the Combined Heat and Power Quality Assurance (CHPQA) scheme.

7. An exception, designed to cover circumstances where a heat customer has been lost due to circumstances beyond a generator's control, allows stations to receive ROCs during no more than five Obligation periods in respect of which CHPQA accreditation has not been obtained.

8. The amendment Order also substitutes a new definition of microgenerator to exclude enhanced wave and tidal stream generators. This will enable such generators, with a capacity of 50 kW or less, to remain eligible for the higher ROC bands for such generation which are introduced by article 18 of the amending Order.

9. The remaining changes are consistent with those being introduced across the UK, and include the following:

- An increase in the ROC levels for certain wave and tidal generators to 5 ROCs, where the capacity of the station is no greater than 30 megawatts. This represents an increase to the existing tidal band in Scotland, set at 3 ROCs, and marks support across the UK for wave generation rising to levels set under the ROS in 2009.
- New bands for “building mounted” and “ground mounted” solar PV generation.
- Changes to support for landfill gas generation, with eligibility restricted to new capacity, microgenerators (50 kilowatts or less) and sites recovering waste heat.
- The introduction of grace periods for certain generating stations, recognising that certain stations may face delays in their commissioning date for reasons which are beyond their control. The ability to register as a grace period generating station is limited to circumstances involving a delay to grid connection or radar works, and specific evidence must be provided.
- New definitions for “pre-2013 capacity”, “2013/14 capacity”, “2014/15 capacity”, “2015/16 capacity” and “post-2016 capacity” because generating capacity accredited, or additional capacity added in each of these periods may be entitled to different levels of support.
- A number of new definitions for stations which co-fire renewable biomass fuel alongside fossil fuel, plus changes to the co-firing banding levels.
- A list of specific energy crop types that will be eligible for support under the ROS.
- An expanded definition of biomass to include all fossil derived bioliquids.
- The removal of the current co-firing caps within the ROS and their replacement by a 4% cap on the proportion of their obligation that suppliers can meet using ROCs issues in respect of electricity generated from bioliquid.

## **Enabling powers**

10. Powers under section 2(2) of the European Communities Act 1972(as read with paragraph 1A of Schedule 2 to that Act) are used to make articles 3(1)(a)(ix) and 23 of the amending Order. The remainder of the amending Order is made using many of the powers conferred by sections 32 to 32K of the Electricity Act 1989, as amended and introduced by the Energy Act 2008.

## **Consultation**

11. Two consultations took place, between October 2011 and January 2012 and between October and November 2012, on the changes contained within the 2013 Amendment Order. The first consultation elicited 139 responses, and the second 39. The Scottish Government's responses to the consultations were published in September 2012<sup>1</sup> and February 2013<sup>2</sup> respectively.

12. The Scottish Government has also consulted on further changes to the RO concerning the sustainability criteria for solid and gaseous biomass. Subject to the outcome of that consultation, further changes will be proposed in due course.

## **European Directive**

13. The ROS, in tandem with the other UK Obligations, forms an important part of the UK's compliance with the European Directive on the promotion of energy produced from renewable sources ([Directive 2009/28/EC](#)), which amended Directive 2001/77/EC.

## **State Aid**

15. 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. An application has been submitted to the Commission by the UK Department of Energy and Climate Change for approval relating to the changes contained within the 2013 Orders across the UK.

16. The Commission's response is expected shortly. The amendment Order will not be made, subject to its approval by the Scottish Parliament, until and unless the Commission's approval is received.

## **Financial Impacts**

17. The ROS creates additional costs for electricity suppliers, which they can then pass through to industrial, business and domestic consumers as part of their electricity bills. We estimate that the ROS currently adds between £15 – 20 to the average annual household electricity bill. However, the precise extent to which the additional costs incurred by suppliers are actually passed through to each consumer group is a matter for the suppliers themselves.

## **Scottish Government Energy and Climate Change Directorate January 2013**

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<sup>1</sup> <http://scotland.gov.uk/Resource/0040/00401801.pdf>

<sup>2</sup> <http://www.scotland.gov.uk/Resource/0041/00414086.pdf>