
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2014 No.

The Renewables Obligation (Scotland) Amendment Order 2014

Preliminary accreditation of generating stations

20. For article 58 substitute—

“Preliminary accreditation of generating stations

58.—(1) Subject to paragraph (2), where a generating station in respect of which—

- (a) consent under section 36 of the Act has been obtained;
- (b) planning permission under the Town and Country Planning (Scotland) Act 1997(1) has been granted;
- (c) in the case of an offshore generating station, a marine licence under Part 4 of the Marine (Scotland) Act 2010(2) has been granted where consent under section 36 of the Act is not required,

is not yet commissioned, the Authority may, upon the application of the person who proposes to construct or operate the generating station, grant the station preliminary accreditation.

(2) The Authority must not grant preliminary accreditation to a generating station under this article—

- (a) if, in the Authority’s opinion, the station is unlikely to generate electricity in respect of which SROCs may be issued;
- (b) if a CFD has been made at any time in relation to the generation of electricity by the station; or
- (c) subject to paragraph (3), if an investment contract has been made at any time in relation to the generation of electricity by the station.

(3) Paragraph (2)(c) does not apply if the application for a preliminary accreditation is accompanied by a declaration made in writing by the person who proposes to construct or operate the generating station that the investment contract has been terminated or has otherwise ceased to have effect by reason of a permitted termination event.

(4) In paragraph (3), “permitted termination event” means—

- (a) a delay in the approval of the investment contract by the European Commission;
- (b) a refusal by the European Commission to approve the investment contract;
- (c) a condition attached by the European Commission to its approval of the investment contract; or
- (d) an amendment to the investment contract that is made, or proposed, by the Secretary of State in the light of any standard terms issued under section 11 of the Energy Act 2013.

(1) 1997 c.8.
(2) 2010 asp 5.

(5) In this article, references to a person who proposes to construct a generating station include a person who arranges for the construction of the generating station.

Accreditation of generating stations

58ZZA.—(1) This article applies to the granting of accreditation of generating stations by the Authority.

(2) Subject to paragraph (4), where a generating station has been commissioned, the Authority may, upon the application of its operator (or, where SROCs relating to electricity generated by that station are to be issued to an agent by virtue of article 35, that agent), grant the station accreditation.

(3) Subject to paragraph (4), where a generating station has been granted preliminary accreditation (and such preliminary accreditation has not been withdrawn) and an application for its accreditation is made under paragraph (2), the Authority must not grant that application if it is satisfied that—

- (a) there has been a material change in circumstances since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused;
- (b) the information on which the decision to grant the preliminary accreditation was based was incorrect in a material particular such that, had the Authority known the true position when the application for preliminary accreditation was made it would have refused it; or
- (c) there has been a change in applicable legislation since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused,

but otherwise the Authority must grant the application.

(4) The Authority must not grant accreditation to a generating station under this article—

- (a) if, in the Authority's opinion, the station is unlikely to generate electricity in respect of which SROCs may be issued;
- (b) subject to paragraph (5), if the application for accreditation is not accompanied by the documents specified in paragraph (8);
- (c) subject to paragraph (6), if an application for a CFD has been made at any time in relation to the generation of electricity by the station; or
- (d) subject to paragraph (7), if an investment contract has been made at any time in relation to the generation of electricity by the station.

(5) Paragraph (4)(b) does not apply if the application for accreditation is in respect of a generating station which—

- (a) is a microgenerator; or
- (b) has a total installed capacity of no more than 5 megawatts, and which—
 - (i) generates electricity from—
 - (aa) gas formed by the anaerobic digestion of material which is neither sewage nor material in a landfill;
 - (bb) the direct conversion of sunlight into electricity; or
 - (cc) wind; or
 - (ii) is a hydro generating station.

(6) Paragraph (4)(c) does not apply if the application for accreditation is accompanied by the document specified in paragraph (8)(a)(ii).

(7) Paragraph (4)(d) does not apply if the application for accreditation is accompanied by the document specified in paragraph (8)(b)(ii).

(8) The documents specified in this paragraph are—

(a) either—

(i) a declaration made in writing by the operator of the generating station that an application for a CFD has not been made at any time in relation to the generation of electricity by the station; or

(ii) a declaration made in writing by the operator of the generating station that every application made for a CFD in relation to the generation of electricity by the station has been rejected by the national system operator or by the Secretary of State;

(b) either—

(i) a declaration made in writing by the operator of the generating station that an investment contract has never been made in relation to the generation of electricity by the station; or

(ii) a declaration made in writing by the operator of the generating station that any investment contract made in relation to the generation of electricity by the station has been terminated or has otherwise ceased to have effect by reason of a permitted termination event; and

(c) a declaration made in writing by the operator of the generating station that the national system operator has been sent—

(i) a copy of the documents that accompany the application in accordance with sub-paragraphs (a) and (b); and

(ii) a description of the location of the generating station.

(9) In this article “permitted termination event” has the same meaning as in article 58(4).

Preliminary accreditation and accreditation: common provisions

58ZZB.—(1) This article applies to the granting and withdrawing of preliminary accreditation and accreditation of generating stations by the Authority.

(2) The Authority may, in granting preliminary accreditation under article 58 or accreditation under article 58ZZA, attach such conditions as appear to it to be appropriate.

(3) Where any of the circumstances mentioned in paragraph (4) apply in relation to a preliminary accreditation or an accreditation which the Authority has granted (whether or not under this Order), and having regard to those circumstances the Authority considers it appropriate to do so, the Authority may—

(a) withdraw the preliminary accreditation or accreditation in question;

(b) amend the conditions attached to the preliminary accreditation or accreditation; or

(c) attach conditions to the preliminary accreditation or accreditation.

(4) The circumstances referred to in paragraph (3) are that—

(a) in the Authority’s view there has been a material change in circumstances since the preliminary accreditation or accreditation was granted;

(b) any condition attached to the preliminary accreditation or accreditation has not been complied with;

- (c) the Authority has reason to believe that the information on which the decision to grant the preliminary accreditation or accreditation was based was incorrect in a material particular; or
 - (d) there has been a change in applicable legislation since the preliminary accreditation or accreditation was granted such that, had the application for preliminary accreditation or accreditation been made after the change, it would not have been granted.
- (5) The Authority must notify the applicant in writing of—
- (a) its decision on an application for preliminary accreditation or accreditation of a generating station;
 - (b) any conditions attached to the preliminary accreditation or accreditation; and
 - (c) any withdrawal of preliminary accreditation or accreditation.
- (6) In providing written notification under paragraph (5), the Authority must specify, where applicable—
- (a) the date on which the grant or withdrawal of preliminary accreditation or accreditation is to take effect;
 - (b) the date on which any conditions attached to the preliminary accreditation or accreditation are to take effect; and
 - (c) the capacity of the generating station as accredited.”.