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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 173**

**The Renewables Obligation (Scotland) Order 2006**

**PART 3**

**Electricity from Renewable Energy Sources**

**Eligible renewable sources: qualifying arrangement**

6.—(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.