
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 140

The Renewables Obligation (Scotland) Order 2009

PART 6

Banding and grandfathering

[^{F1}Electricity generated by qualifying combined heat and power generating stations

28.—(1) This article applies to electricity—

- (a) which is generated by a qualifying combined heat and power generating station in a way described in the first column of Part 2B of Schedule 2;
- (b) to which none of articles 28A to 28E apply; and
- (c) which is generated by a generating station to which article 29 does not apply.

(2) Subject to paragraphs (3) to (6), the amount of electricity to be stated in each SROC issued in respect of electricity to which this article applies is to be determined in accordance with article 27(4) to (8).

(3) Where electricity to which this article applies is generated using pre-2013 capacity, the amount of electricity to be stated in each SROC is—

- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 2B of Schedule 2 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule; and
- (b) in respect of the remainder of that electricity, the amount of electricity in the third column of Part 2B of Schedule 2 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule.

(4) Where a declaration has been made in accordance with paragraph (7) in respect of the 2013/15 capacity of a generating station, and electricity to which this article applies is generated by that station using 2013/15 capacity, the amount of electricity to be stated in each SROC is—

- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 2B of Schedule 2 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule; and
- (b) in respect of the remainder of that electricity, the amount of electricity in the third column of Part 2B of Schedule 2 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule.

(5) Where a declaration has been made in accordance with paragraph (7) in respect of the 2015/16 capacity of a generating station, and electricity to which this article applies is generated by that station using 2015/16 capacity, the amount of electricity to be stated in each SROC is—

- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 2C of Schedule 2 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule; and

- (b) in respect of the remainder of that electricity, the amount of electricity in the third column of Part 2C of Schedule 2 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule.
- (6) Where a declaration has been made in accordance with paragraph (7) in respect of the post-2016 capacity of a generating station, and electricity to which this article applies is generated by that station using post-2016 capacity, the amount of electricity to be stated in each SROC is—
- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 2D of Schedule 2 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule; and
 - (b) in respect of the remainder of that electricity, the amount of electricity in the third column of Part 2D of Schedule 2 which corresponds to the description of the way in which the electricity is generated in the first column of that Part of that Schedule.
- (7) A declaration is made in accordance with this paragraph if it meets the following conditions—
- (a) it is made by the operator of the generating station to the Authority in writing;
 - (b) it is made in respect of the 2013/15 capacity, 2015/16 capacity or post-2016 capacity of the station;
 - (c) in the case of a declaration made in respect of the 2013/15 capacity of the station, it confirms that—
 - (i) 2013/15 capacity forms part of the total installed capacity of the station; and
 - (ii) support has not been given under any relevant scheme for heat produced by the use of that generating capacity;
 - (d) in the case of a declaration made in respect of the 2015/16 capacity of the station, it confirms that—
 - (i) 2015/16 capacity forms part of the total installed capacity of the station; and
 - (ii) none of the heat produced by the use of the 2015/16 capacity is eligible for support under a relevant scheme for reasons that include one or both of the following—
 - (aa) the way in which the station generates electricity;
 - (bb) the biomass, bioliquid or energy crops used by the station to generate electricity;
 - (e) in the case of a declaration made in respect of the post-2016 capacity of the station, it confirms that—
 - (i) post-2016 capacity forms part of the total installed capacity of the station; and
 - (ii) none of the heat produced by the use of the post-2016 capacity is eligible for support under a relevant scheme for reasons that include one or both of the following—
 - (aa) the way in which the station generates electricity;
 - (bb) the biomass, bioliquid or energy crops used by the station to generate electricity; and
 - (f) it states that, for so long as the station generates electricity in respect of which SROCs may be issued, the operator of the station will not claim support under any relevant scheme for heat produced by the station using the type of generating capacity in respect of which the declaration is made.
- (8) A declaration made in accordance with paragraph (7) cannot be withdrawn.
- (9) In this article “relevant scheme” means a scheme established by the Secretary of State in exercise of the power in section 100(1)(a) of the Energy Act 2008.
- (10) This article is subject to article 32.]

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Renewables Obligation (Scotland) Order 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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Textual Amendments

- F1** Art. 28 substituted (1.4.2013) by [The Renewables Obligation \(Scotland\) Amendment Order 2013 \(S.S.I. 2013/116\)](#), arts. 1(1), **12** (with art. 29)

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- [art. 12C](#) inserted by [S.S.I. 2024/98 art. 6](#)