
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 140

The Renewables Obligation (Scotland) Order 2009

PART 6

Banding and grandfathering

Review of banding provisions

33.—(1) In this Order, “banding provision” means a provision of articles 27 to 31.

(2) The Scottish Ministers may commence a review of the banding provisions in October 2010 and at subsequent four yearly intervals.

(3) The Scottish Ministers may review all or any of the banding provisions at any time if satisfied that one or more of the following conditions is satisfied—

- (a) the charges imposed by network operators on persons, or a class of persons, making a request for connection to and use of a transmission or distribution system have changed significantly since the Scottish Ministers made the banding provisions;
- (b) the charges imposed by network operators on persons, or a class of persons, who generate electricity have changed significantly since the Scottish Ministers made the banding provisions;
- (c) a way of generating electricity is being or has been developed that—
 - (i) is likely to be used to generate from renewable sources electricity which is supplied to customers in Great Britain; and
 - (ii) is not listed in the first column of Part 2 [^{F1}or Part 2A] of Schedule 2;
- (d) there has been a change, since the Scottish Ministers made the banding provisions, in any support, whether financial or otherwise, provided under any enactment other than sections 32 to 32M of the Act to persons generating electricity from renewable sources and that change is likely to have a significant impact on the generation of electricity from renewable sources;
- (e) the costs of generating electricity in any of the ways listed in the first column of Part 2 [^{F2}or Part 2A] of Schedule 2 are significantly different from the costs of generating electricity in that way to which the Scottish Ministers had regard when making the banding provisions;
- [^{F3}(f) there is evidence over a significant period that the provisions of article 13(3) and (4) are having a material effect on trade in SROCs referred to in article 13(3);]
- (g) in an obligation period the number of SROCs issued by, produced to or likely to be produced to the Authority exceeds or is likely to exceed the total number of SROCs required to be produced to the Authority in respect of that obligation period by designated electricity suppliers;
- (h) an event has occurred which—
 - (i) is relevant to the matters set out in section 32D(4) of the Act;
 - (ii) was not foreseen by the Scottish Ministers when making the banding provisions; or

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(iii) has had or is likely to have a material effect on the operation of this Order.

(4) In this article, “network operators” are persons authorised by a licence under section 6(1)(b) or (c) of the Act to participate in the transmission of electricity or to distribute electricity.

Textual Amendments

- F1** Words in art. 33(3)(c)(ii) inserted (1.4.2013) by [The Renewables Obligation \(Scotland\) Amendment Order 2013 \(S.S.I. 2013/116\)](#), arts. 1(1), **20(2)** (with art. 29)
- F2** Words in art. 33(3)(e) inserted (1.4.2013) by [The Renewables Obligation \(Scotland\) Amendment Order 2013 \(S.S.I. 2013/116\)](#), arts. 1(1), **20(3)** (with art. 29)
- F3** Art. 33(3)(f) substituted (1.4.2013) by [The Renewables Obligation \(Scotland\) Amendment Order 2013 \(S.S.I. 2013/116\)](#), arts. 1(1), **20(4)** (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](#)