
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 140

The Renewables Obligation (Scotland) Order 2009

PART 6

Banding and grandfathering

The amount of electricity to be stated in each SROC

27.—(1) Each SROC is to state the amount of electricity in respect of which it has been issued.

(2) The amount of electricity to be stated in each SROC depends on the way in which the electricity in respect of which it is to be issued has been generated.

(3) Subject to articles 28 to 32, the amount of electricity to be stated in each SROC is to be determined in accordance with paragraphs (4) and (5).

(4) Each SROC to be issued in respect of electricity generated in a way described in the first column of Part 2 of Schedule 2 must state the amount of electricity which corresponds to that description in the second column of that Part of that Schedule.

(5) The amount of electricity to be stated in each SROC which is issued in respect of electricity generated in a way which is not described in the first column of Part 2 of Schedule 2 is 1 megawatt hour.

Qualifying combined heat and power generating stations

28.—(1) Subject to articles 29 and 32, where electricity generated by a qualifying combined heat and power generating station is generated in the way described as “Co-firing of biomass” in Schedule 2, and the fossil fuel and regular biomass referred to are burnt in separate boilers or engines, the amount of electricity to be stated in each SROC is—

- (a) in respect of the relevant proportion of that electricity, 1 megawatt hour; and
- (b) in respect of the remainder of that electricity, 2 megawatt hours.

(2) Subject to articles 29 and 32, where electricity generated by a qualifying combined heat and power generating station is generated in the way described as “Co-firing of energy crops” in Schedule 2, and the fossil fuel and energy crops referred to are burnt in separate boilers or engines, the amount of electricity to be stated in each SROC is—

- (a) in respect of the relevant proportion of that electricity, 2/3rds of a megawatt hour; and
- (b) in respect of the remainder of that electricity, 1 megawatt hour.

(3) Subject to articles 29 and 32, where electricity generated by a qualifying combined heat and power generating station is generated in the way described as “dedicated biomass” in Schedule 2, the amount of electricity to be stated in each SROC is—

- (a) in respect of the relevant proportion of that electricity, 1/2 of a megawatt hour; and
- (b) in respect of the remainder of that electricity, 2/3rds of a megawatt hour.

(4) In this article, “the relevant proportion”, in relation to electricity generated by a qualifying combined heat and power generating station, is the proportion which the qualifying power output of that station bears to its total power output.

Microgenerators

29.—(1) This article applies to a generating station which—

- (a) is a microgenerator; and
- (b) has not had a declared net capacity in excess of 50 kilowatts at any time after 31st March 2009.

(2) The amount of electricity to be stated in each SROC which is issued in respect of electricity generated by a generating station to which this article applies is 0.5 megawatt hours.

Generating stations which were accredited as at 11th July 2006

30.—(1) This article applies to a generating station—

- (a) which was accredited as at 11th July 2006;
- (b) which has not ceased to be accredited since that date; and
- (c) to which neither article 28 nor article 29 applies.

(2) Subject to paragraphs (3) to (6), the amount of electricity to be stated in each SROC issued in respect of electricity generated by a generating station to which this article applies is to be determined in accordance with article 27(4) and (5).

(3) Where the electricity generated by a generating station to which this article applies is generated in a way described in the first column of Part 3 of Schedule 2, the amount of electricity to be stated in each SROC issued in respect of that electricity is (subject to paragraphs (4) to (6)) the amount which corresponds to that description in the second column of that Part of that Schedule.

(4) Where, at the time it generates the electricity, the generating station’s total installed capacity is greater than it was on 11th July 2006, paragraph (3) applies only in relation to SROCs which are to be issued in respect of—

- (a) where electricity generated using the total installed capacity of the station as at 11th July 2006 (“the original capacity”) is measured separately from electricity generated using capacity which has been added to the station since that date (“additional capacity”), the electricity which is generated using the station’s original capacity;
- (b) in any other case, the appropriate percentage of the electricity generated by the station (the appropriate percentage for these purposes being the total installed capacity of the station as at 11th July 2006 expressed as a percentage of the total installed capacity of the station as at the date of generation of the electricity).

(5) In relation to the remainder of the electricity generated by the generating station, the amount of electricity to be stated in each SROC is to be determined in accordance with article 27(4) and (5) except to the extent that the electricity—

- (a) is generated using additional capacity which was operational before 1st April 2011 (“relevant additional capacity”); and
- (b) is generated in a way described in the first column of Part 4 of Schedule 2.

(6) Where the electricity generated by the generating station is generated using relevant additional capacity in a way described in the first column of Part 4 of Schedule 2, the amount of electricity to be stated in each SROC which is to be issued in respect of that electricity is the amount which corresponds to that description in the second column of that Part of that Schedule.

(7) In paragraphs (5) and (6), the reference to electricity being generated using relevant additional capacity is a reference to—

- (a) where electricity generated using relevant additional capacity is measured separately from electricity generated otherwise than by using such capacity, the electricity which is generated using that capacity;
- (b) in any other case, the appropriate percentage of the electricity generated by the generating station (the appropriate percentage for these purposes being the relevant additional capacity of the station at the date of generation of the electricity expressed as a percentage of the total installed capacity of the station at that date).

(8) This article is subject to article 32.

Generating stations which were accredited, or held preliminary accreditation, as at 31st March 2009

31.—(1) This article applies to a generating station—

- (a) which was accredited as at 31st March 2009;
- (b) which has not ceased to be accredited since that date; and
- (c) to which articles 28 to 30 do not apply.

(2) This article also applies to a generating station—

- (a) which is accredited on or before 31st March 2011;
- (b) which, since being accredited, has not ceased to be accredited at any time;
- (c) in respect of which preliminary accreditation was held—
 - (i) as at 31st March 2009; and
 - (ii) from that date until the date on which the station was accredited; and
- (d) to which articles 28 to 30 do not apply.

(3) Subject to paragraphs (4) to (6), the amount of electricity to be stated in each SROC issued in respect of electricity generated by a generating station to which this article applies is to be determined in accordance with article 27(4) and (5).

(4) Where the electricity generated by a generating station to which this article applies is generated in a way described in the first column of Part 4 of Schedule 2, the amount of electricity to be stated in each SROC issued in respect of that electricity is (subject to paragraph (5)) the amount which corresponds to that description in the second column of that Part of that Schedule.

(5) Where, at any time it generates electricity after 31st March 2011, the generating station's total installed capacity is greater than it was on 31st March 2011, paragraph (4) applies only in relation to SROCs which are to be issued in respect of—

- (a) where electricity generated using the total installed capacity of the station as at 31st March 2011 (“the original capacity”) is measured separately from electricity generated using capacity which has been added to the station since that date, the electricity which is generated using the station's original capacity; and
- (b) in any other case, the appropriate percentage of the electricity generated by the station (the appropriate percentage for these purposes being the total installed capacity of the station as at 31st March 2011 expressed as a percentage of the total installed capacity of the station as at the date of generation of the electricity).

(6) In relation to the remainder of the electricity generated by the generating station, the amount of electricity to be stated in each SROC is to be determined in accordance with article 27(4) and (5).

(7) This article is subject to article 32.

Generating stations in respect of which a statutory grant has been awarded

- 32.**—(1) This article applies to a generating station—
- (a) in respect of which a statutory grant was awarded on or before 11th July 2006; and
 - (b) which either—
 - (i) was granted accreditation which took effect after 11th July 2006; or
 - (ii) generates electricity from biomass or waste (including fuels produced from biomass or waste by means of gasification, pyrolysis or anaerobic digestion); and
 - (c) which is not a microgenerator.
- (2) The operation of articles 27 to 31 in relation to electricity generated by a generating station to which this article applies is conditional upon the operator of the station agreeing—
- (a) if the grant or any part of it has been paid, to repay to the Scottish Ministers on or before 31st March 2011 so much of the grant as has been paid;
 - (b) to pay to the Scottish Ministers interest on an amount repayable under sub-paragraph (a) for such period, and at such rate, as may be determined by the Scottish Ministers; and
 - (c) if the grant or any part of it has not yet been paid, to consent to the cancellation of the award of the grant or part.
- (3) Where a generating station to which this article applies generates electricity at a time when the operator of the station—
- (a) has not so agreed; or
 - (b) having so agreed, has not produced to the Authority evidence of—
 - (i) the repayment of all amounts due under paragraph (2)(a) or the payment of all amounts of interest due under paragraph (2)(b); and
 - (ii) where a grant or any part has been cancelled under paragraph (2)(c), the cancellation of that grant or part,
- the amount of electricity to be stated in each SROC issued in respect of that electricity is 1 megawatt hour or the amount determined in accordance with article 27 or 28, whichever is the greater.
- (4) In determining how electricity has been generated for the purposes of paragraph (1)(b)(ii), no account is to be taken of any waste which the generating station uses for permitted ancillary purposes.

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 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 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;
- (f) there is evidence over a significant period that the provisions of article 13(3) to (5) are having a material effect on trade in SROCs referred to in article 13(3) and (4);
- (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
 - (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.