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DRAFT STATUTORY INSTRUMENTS

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**2015 No.**

**The Renewables Obligation Order 2015**

**PART 6**

**Banding**

**Calculating the amount of electricity generated by a particular category of generating capacity**

**31.**—(1) References in this Part to a category of generating capacity are references to one of the following—

- (a) pre-2013 capacity;
- (b) 2013/14 capacity;
- (c) 2014/15 capacity;
- (d) 2015/16 capacity;
- (e) post-2016 capacity.

(2) Paragraph (3) applies for the purposes of this Part.

(3) Where during any month two or more categories of generating capacity form part of the RO capacity of a generating station, the proportion of a station's RO eligible renewable output which is generated by each category of generating capacity is  $A \div B$ .

(4) In paragraph (3)—

- (a) A is the total installed capacity of that category of generating capacity of the station in the month in question (other than any of that category of generating capacity which forms part of the excluded capacity of the station), and
- (b) B is the total installed capacity of the RO capacity of the station in that month.

**Calculating the amount of electricity generated in a particular way**

**32.**—(1) References in this Part to a way of generating electricity are references to—

- (a) one of the ways of generating electricity described in the first column of Parts 2, 3 or 5 of Schedule 5;
- (b) generating electricity in the way described in article 36(1)(c);
- (c) generating electricity in the way described in article 36(1)(c) and (3)(b);
- (d) generating electricity from renewable sources in a way not falling within subparagraph (a), (b) or (c).

(2) Paragraph (3) applies for the purposes of this Part.

(3) Where during any month the RO eligible renewable output of a generating station is generated in two or more ways, the proportion of the station's RO eligible renewable output which is generated in each of those ways is—

- (a) in the case of electricity generated in a way that does not use fuel,  $C \div B$ ;
- (b) in the case of electricity generated using mixed gas in the way described as “AD” in Schedule 5,  $\frac{D}{B} \times \frac{E}{F} \times \frac{G}{H}$ ;
- (c) in the case of electricity generated using mixed gas in the way described as “electricity generated from sewage gas” in Schedule 5,  $\frac{D}{B} \times \frac{E}{F} \times \frac{I}{H}$ ;
- (d) in the case of electricity generated in a way not falling within sub-paragraph (a), (b) or (c),  $\frac{D}{B} \times \frac{J}{F}$ .
- (4) In paragraph (3)—
- (a) B is the total installed capacity of the RO capacity of the station in that month;
- (b) C is the maximum capacity in that month at which the station could generate electricity—
- (i) in the way in question,
  - (ii) using RO capacity, and
  - (iii) for a sustained period without causing damage to the station (assuming the source of power used by the station to generate electricity was available to it without interruption);
- (c) D is the maximum capacity in that month at which the station could generate electricity—
- (i) from fuel,
  - (ii) using RO capacity, and
  - (iii) for a sustained period without causing damage to the station (assuming the fuel used by the station to generate electricity was available to it without interruption);
- (d) E is the energy content of the mixed gas used in generating the station’s RO output electricity during that month less the energy content of any fossil fuel from which the mixed gas is in part composed;
- (e) F is the energy content of all of the renewable sources used in generating the station’s RO output electricity during that month less the energy content of any fossil fuel from which those renewable sources are in part composed;
- (f) G is the dry mass of—
- (i) any renewable waste (other than sewage), and
  - (ii) any biomass (other than sewage or renewable waste),
- from which the mixed gas used in generating the station’s RO output electricity during that month is formed, less the dry mass of any digestible fossil fuel from which that waste or biomass is in part composed;
- (g) H is the dry mass of all of the material from which the mixed gas used in generating the station’s RO output electricity during that month is formed, less the dry mass of any digestible fossil fuel from which that material is in part composed;
- (h) I is the dry mass of the sewage from which the mixed gas used in generating the station’s RO output electricity during that month is formed; and
- (i) J is the energy content of the renewable sources used in generating the station’s RO output electricity in the way in question during that month less the energy content of any fossil fuel from which those renewable sources are in part composed.

(5) For the purposes of paragraphs (3) and (4)(c), electricity generated in the way described as “landfill gas heat recovery” in Schedule 5 is to be regarded as not generated from fuel.

(6) In this article—

“dry mass”, in relation to a fuel, means the mass of the fuel when any water present in it has been removed; and

“mixed gas” means gas formed by the anaerobic digestion of sewage together with—

(a) renewable waste (other than sewage), or

(b) biomass (other than sewage).

### **The amount of electricity to be stated in each ROC**

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

(2) Subject to articles 34 to 41, the amount of electricity to be stated in each ROC is to be determined in accordance with paragraphs (3) to (8).

(3) Each ROC to be issued in respect of electricity generated—

(a) using pre-2013 capacity, and

(b) in a way described in the first column of Part 2 of Schedule 5,

must state the amount of electricity which corresponds to that description in the second column of that Part of that Schedule.

(4) Each ROC to be issued in respect of electricity generated—

(a) using 2013/14 capacity, and

(b) in a way described in the first column of Part 3 of Schedule 5,

must state the amount of electricity which corresponds to that description in the second column of that Part of that Schedule.

(5) Each ROC to be issued in respect of electricity generated—

(a) using 2014/15 capacity, and

(b) in a way described in the first column of Part 3 of Schedule 5,

must state the amount of electricity which corresponds to that description in the third column of that Part of that Schedule.

(6) Each ROC to be issued in respect of electricity generated—

(a) using 2015/16 capacity, and

(b) in a way described in the first column of Part 3 of Schedule 5,

must state the amount of electricity which corresponds to that description in the fourth column of that Part of that Schedule.

(7) Each ROC to be issued in respect of electricity generated—

(a) using post-2016 capacity, and

(b) in a way described in the first column of Part 3 of Schedule 5,

must state the amount of electricity which corresponds to that description in the fifth column of that Part of that Schedule.

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

## Microgenerators

- 34.**—(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) Each ROC to be issued in respect of electricity generated—
- (a) by a generating station to which this article applies, and
  - (b) using a category of generating capacity described in the first column of Part 4 of Schedule 5,

must state the amount of electricity which corresponds to that description in the second column of that Part of that Schedule.

- (3) This article is subject to article 41.

## Electricity generated by qualifying CHP stations

- 35.**—(1) This article applies to electricity (“relevant electricity”)—
- (a) which is generated by a qualifying CHP station in a way described in the first column of Part 5 of Schedule 5,
  - (b) to which article 36 does not apply, and
  - (c) which is generated by a generating station to which article 34 does not apply.
- (2) Subject to paragraphs (3) to (6), the amount of electricity to be stated in each ROC issued in respect of relevant electricity is to be determined in accordance with article 33(3) to (7).
- (3) Where relevant electricity is generated using pre-2013 capacity, the amount of electricity to be stated in each ROC is—
- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 5 of Schedule 5 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 5 of Schedule 5 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 station, and relevant electricity is generated by that station using 2013/15 capacity, the amount of electricity to be stated in each ROC is—
- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 5 of Schedule 5 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 5 of Schedule 5 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 station, and relevant electricity is generated by that station using 2015/16 capacity, the amount of electricity to be stated in each ROC is—
- (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 6 of Schedule 5 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 6 of Schedule 5 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 station, and relevant electricity is generated by that station using post-2016 capacity, the amount of electricity to be stated in each ROC is—
  - (a) in respect of the qualifying proportion of that electricity, the amount of electricity in the second column of Part 7 of Schedule 5 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 7 of Schedule 5 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 bioliquid, biomass 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 bioliquid, biomass 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 ROCs may be issued, the operator of the station will not claim support under any relevant scheme for heat produced by the station using the category 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(1).

(10) This article is subject to article 41.

### **Low-range co-firing of relevant energy crops**

**36.**—(1) This article applies to electricity which is generated—

- (a) before 1st April 2019,
- (b) by a generating station to which article 34 does not apply, and
- (c) from relevant energy crops burned in a combustion unit in a month in which—
  - (i) the energy content of the biomass burned in that combustion unit is less than 50% of the energy content of all of the energy sources burned in that combustion unit during that month, and
  - (ii) the generating station generates electricity partly from fossil fuel and partly from renewable sources.

(2) Subject to paragraph (4), the amount of electricity to be stated in each ROC issued in respect of electricity to which this article applies is 1 megawatt hour.

(3) Paragraph (4) applies where electricity to which this article applies is generated—

- (a) by a qualifying CHP station,
- (b) in a month in which the fossil fuel used by the station to generate electricity has been burned in a separate combustion unit from the relevant energy crops used by the station to generate electricity, and
- (c) using—
  - (i) pre-2013 capacity, or
  - (ii) 2013/15 capacity, 2015/16 capacity or post-2016 capacity in respect of which a declaration has been made in accordance with article 35(7).

(4) Where this paragraph applies, the amount of the electricity to be stated in each ROC is—

- (a)  $\frac{2}{3}$  in respect of the qualifying proportion of the electricity,  $\frac{2}{3}$  of a megawatt hour; and
- (b) in respect of the remainder of the electricity, 1 megawatt hour.

(5) Paragraphs (a), (b) and (d) of paragraph 1(2) of Part 1 of Schedule 5 apply for the purposes of this article as they apply for the purposes of that Schedule.

(6) In this article, “relevant energy crops” means energy crops which are supplied to the operator of a generating station in accordance with an agreement made—

- (a) in writing,
- (b) before 7th September 2012, and
- (c) between the owner or operator of the generating station and a person who is not connected to the owner or operator of the station within the meaning of section 1122 of the Corporation Tax Act 2010(2).

(7) This article is subject to article 41.

### **Generating stations which were accredited as at 11th July 2006**

**37.**—(1) This article applies to electricity which is—

- (a) generated by a generating station—

- (i) which was accredited as at 11th July 2006,
- (ii) which has not ceased to be accredited since that date, and
- (iii) to which article 34 does not apply;
- (b) generated using pre-2013 capacity, and
- (c) generated—
  - (i) from landfill gas,
  - (ii) from sewage gas,
  - (iii) in the way described as “offshore wind” in Schedule 5,
  - (iv) in the way described as “solar photovoltaic” in Schedule 5, or
  - (v) in the way described as “wave” in Schedule 5.

(2) Subject to paragraphs (3) to (5), the amount of electricity to be stated in each ROC issued in respect of electricity to which this article applies is 1 megawatt hour.

(3) 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 (2) applies only in relation to ROCs 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 July 2006 capacity”) is measured separately from electricity generated using capacity which has been added to the station since that date (“additional capacity”), the electricity to which this article applies which is generated using the station’s July 2006 capacity;
- (b) in any other case, the appropriate percentage of the electricity to which this article applies (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 pre-2013 capacity of the station as at the date of generation of the electricity).

(4) In relation to the remainder of the electricity to which this article applies, the amount of electricity to be stated in each ROC is to be determined in accordance with article 33(3) except to the extent that it is electricity which is generated—

- (a) using additional capacity which was operational before 1st April 2011 (“relevant additional capacity”); and
- (b) from landfill gas or from sewage gas.

(5) Where the electricity to which this article applies is generated from landfill gas or from sewage gas using relevant additional capacity, the amount of electricity to be stated in each ROC which is to be issued in respect of that electricity is 1 megawatt hour.

(6) In paragraphs (4) and (5), the reference to electricity generated using 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 to which this article applies (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 pre-2013 capacity at that date).

(7) This article is subject to article 41.

**Landfill gas and sewage gas generating stations which were accredited, or held preliminary accreditation, as at 31st March 2009**

- 38.**—(1) Subject to paragraph (3), this article applies to electricity which is generated—
- (a) by a generating station—
    - (i) which was accredited as at 31st March 2009, and
    - (ii) which has not ceased to be accredited since that date,
  - (b) from landfill gas or sewage gas, and
  - (c) using pre-2013 capacity.
- (2) Subject to paragraph (3), this article also applies to electricity which is generated—
- (a) by a generating station—
    - (i) which was accredited on or before 31st March 2011,
    - (ii) which, since being accredited, has not ceased to be accredited at any time, and
    - (iii) in respect of which preliminary accreditation was held—
      - (aa) as at 31st March 2009, and
      - (bb) from that date until the date on which the station was accredited,
  - (b) from landfill gas or sewage gas, and
  - (c) using pre-2013 capacity.
- (3) This article does not apply to electricity—
- (a) which is generated by a generating station to which article 34 applies, or
  - (b) to which article 37 applies.
- (4) Subject to paragraph (5), the amount of electricity to be stated in each ROC issued in respect of electricity to which this article applies is 1 megawatt hour.
- (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 ROCs 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 March 2011 capacity”) is measured separately from electricity generated using capacity which has been added to the station since that date, the electricity to which this article applies which is generated using the station’s March 2011 capacity;
  - (b) in any other case, the appropriate percentage of the electricity to which this article applies (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 pre-2013 capacity of the station as at the date of generation of the electricity).
- (6) In relation to the remainder of the electricity to which this article applies, the amount of electricity to be stated in each ROC is to be determined in accordance with article 33(3).
- (7) This article is subject to article 41.

**Offshore wind turbines installed between 2006 and 2010**

- 39.**—(1) This article applies to electricity which is generated using an offshore wind turbine which, in the Authority’s view, first formed part of the generating station from a date no earlier than 12th July 2006 and no later than 31st March 2010 (“a 2006/10 wind turbine”).



(2) The amount of electricity to be stated in each ROC issued in respect of electricity to which this article applies is  $\frac{2}{3}$  of a megawatt hour.

(3) In any month in which the electricity to which this article applies is not measured separately from any other electricity generated by the generating station, the percentage of the electricity generated by the station during that month which is to be treated (for the purposes of paragraph (2)) as having been generated using a 2006/10 wind turbine, is the appropriate percentage.

(4) For the purposes of paragraph (3), the appropriate percentage is the total installed capacity of the 2006/10 turbines forming part of the generating station as at the date of generation of the electricity expressed as a percentage of the total installed capacity of the station at that date.

(5) This article is subject to article 41.

### **Wave and tidal stream generating stations**

**40.**—(1) This article applies to electricity which is generated—

- (a) using 2012/17 marine capacity, and
- (b) by a generating station to which article 34 does not apply.

(2) Where the total installed capacity of the 2012/17 marine capacity of the generating station does not exceed 30 megawatts as at the date of the generation of the electricity, the amount of electricity to be stated in each ROC issued in respect of electricity to which this article applies is  $\frac{1}{5}$  of a megawatt hour.

(3) Where the total installed capacity of the 2012/17 marine capacity of the generating station exceeds 30 megawatts as at the date of the generation of the electricity, the amount of electricity to be stated in each ROC is—

- (a) in the case of a ROC issued in respect of the relevant proportion of the electricity to which this article applies,  $\frac{1}{5}$  of a megawatt hour;
- (b) in the case of a ROC issued in respect of the remainder of the electricity to which this article applies, an amount to be determined in accordance with article 33(3) to (7).

(4) In any month where 2012/17 marine capacity forms part, but not the whole, of the total installed capacity of a generating station, the proportion of the station's RO eligible renewable output which, for the purposes of paragraphs (2) and (3), is generated using 2012/17 marine capacity is

$$\frac{A}{B}$$

(5) In paragraph (4)—

- (a) A is the total installed capacity of the 2012/17 marine capacity in the month in question; and
- (b) B is the total installed capacity of the station in the month in question.

(6) In this article—

“2012/17 marine capacity”, in relation to a generating station, means any capacity which—

- (a) generates electricity from the capture of the energy created from—
  - (i) the motion of naturally occurring tidal currents in water, or
  - (ii) the motion of naturally occurring waves on water,

- (b) in the Authority’s view, first formed part of the station from a date no earlier than 1st April 2012 and no later than 31st March 2017,
- (c) has, on or before 31st March 2017, generated electricity in respect of which ROCs may be issued, and
- (d) in the case of a station accredited on or before 31st March 2012, does not form part of the capacity of the station as accredited; and

“the relevant proportion”, in relation to electricity generated using the 2012/17 marine capacity of a generating station, is the proportion which 30 megawatts bears to the total installed capacity of the 2012/17 marine capacity as at the date of generation of the electricity.

(7) This article is subject to article 41.

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

**41.**—(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).

(2) The operation of articles 33 to 40 in relation to electricity generated by a generating station to which this article applies is conditional upon—

- (a) if the grant referred to in paragraph (1)(a) or any part of it has been paid, an operator of the station—
  - (i) having repaid to the Secretary of State on or before 31st March 2011 so much of the grant as has been paid, and
  - (ii) having paid to the Secretary of State interest on the amount repayable under paragraph (i) for such period, and at such rate, as may be determined by the Secretary of State, and
- (b) if the grant referred to in paragraph (1)(a) or any part of it has not yet been paid, the cancellation of the award of that grant or part.

(3) Where a generating station to which this article applies generates electricity at a time when the operator of the station has not produced to the Authority evidence of—

- (a) the repayment of all amounts due under paragraph (2)(a)(i),
- (b) the payment of all amounts of interest due under paragraph (2)(b)(ii), and
- (c) the cancellation of the award of the grant referred to in paragraph (1)(a) or the cancellation of the award of any part of that grant that has not yet been paid,

the amount of electricity to be stated in each ROC issued in respect of that electricity is 1 megawatt hour or the amount determined in accordance with any of articles 33 to 36, 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**

**42.**—(1) For the purposes of section 32D(7) and (8) of the Act, the Secretary of State may commence a review of the banding provisions in October 2018 and at subsequent four yearly intervals.

(2) For those purposes the Secretary of State 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 Secretary of State 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 Secretary of State 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 or Part 3 of Schedule 5;
- (d) there has been a change, since the Secretary of State 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 or Part 3 of Schedule 5 are significantly different from the costs of generating electricity in that way to which the Secretary of State had regard when making the banding provisions;
- (f) there is evidence over a significant period that the provisions of article 14(3) and (4) are having a material effect on trade in ROCs referred to in article 14(3);
- (g) in an obligation period the number of ROCs issued by, produced to or likely to be produced to the Authority exceeds or is likely to exceed the total number of ROCs 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 Secretary of State when making the banding provisions, and
  - (iii) has had or is likely to have a material effect on the operation of this Order.

(3) In this article—

“banding provision” means a provision of articles 33 to 40, and

“network operators” are persons authorised by a licence under section 6(1)(b) or (c) of the Act<sup>(3)</sup> to participate in the transmission of electricity or to distribute electricity.

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(3) 1989 c.29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c.27); section 6(1)(b) was substituted by section 136(1) of the Energy Act 2004 (c.20); section 6(1)(c) was amended by Schedule 23(1) paragraph 1 to the Energy Act 2004 (c.20).