
STATUTORY INSTRUMENTS

1990 No. 263

ELECTRICITY

**The Electricity (Non-Fossil Fuel Sources)
(England and Wales) Order 1990**

| | | |
|-------------------------------|---------|---------------------------|
| <i>Made</i> | - - - - | <i>14th February 1990</i> |
| <i>Laid before Parliament</i> | | <i>16th February 1990</i> |
| <i>Coming into force</i> | - - | <i>31st March 1990</i> |

The Secretary of State, in exercise of the powers conferred by section 32(1) and (2) of the Electricity Act 1989⁽¹⁾, and of all other enabling powers, after consultation in accordance with the requirements of subsections (1) and (10) of that section, hereby makes the following Order:-

Citation, commencement and application

1.—(1) This Order may be cited as the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1990 and shall come into force on 31st March 1990.

(2) This Order does not apply to Scotland.

Interpretation

2. References in this Order to relevant non-fossil fuel generating stations are references to any such stations which are or may be fuelled by nuclear fuel.

Requirement to make arrangements etc

3. Each public electricity supplier in England and Wales (whose names are specified in column 1 of Schedule 1 (specified aggregate amounts of non-fossil fuel generating capacity) to this Order) shall, before 1st April 1990, make (in so far as he has not already done so) and produce to the Director evidence showing that he has made such arrangements as will secure that, subject to article 4 of this Order, for each period listed against the name of the supplier in column 2 of that Schedule, the aggregate amount of non-fossil fuel generating capacity available to him from relevant non-fossil fuel generating stations will not be less than that specified in column 3 of the Schedule in relation to that period.

(1) 1989 c. 29.

4.—(1) Where any of the arrangements made by a public electricity supplier in compliance with article 3 of this Order—

- (a) provide that the availability to that supplier of some or all of the capacity of the relevant non-fossil fuel generating stations is conditional upon the satisfaction of any such requirement as is mentioned in Schedule 2 to this Order (whether the requirement in question is described in the terms of that Schedule or in terms to the like effect); and
- (b) result, on the first day of any specified period, in some or all of that capacity not being available to that supplier, by reason of any such requirement not being satisfied as was then due under those arrangements to have been satisfied,

then, in relation to any day during that or any subsequent specified period determined in accordance with paragraph (3) of this article, this Order shall have effect as if the relevant aggregate amount specified in relation to that period were the amount specified in relation to that supplier for the period which includes that day in column 3 of Schedule 1 to this Order, less (subject to the following proviso) an amount equal to the sum of any capacity whose availability is at that time conditional upon the satisfaction of such requirement or requirements and any capacity which has ceased to be available at that time by reason of the occurrence of any such event or events as are referred to in paragraph (2) of this article:

Provided that the amount so specified shall not be reduced so as to be less than the relevant aggregate amount actually available to that supplier under the relevant arrangements during the period in question.

(2) Where any arrangements made by a public electricity supplier in compliance with article 3 of this Order—

- (a) provide that some or all of the relevant generating capacity may reduce or cease to be available following the occurrence of any such event as is mentioned in Schedule 3 to this Order (whether the event in question is described in the terms of that Schedule or in terms to the like effect); and
- (b) result in some or all of that capacity not being available to that supplier, on any day during any specified period, by reason of the occurrence of any such event,

then the specified period then current shall forthwith terminate and, in relation to any day during any subsequent specified period determined in accordance with paragraph (3) of this article, this Order shall have effect as if the relevant aggregate amount specified in relation to that period were the amount specified on relation to that supplier for the period which includes that day in column 3 in Schedule 1 to this Order, less an amount equal to the sum of any capacity which has ceased to be available at that time by reason of the occurrence of any such event or events and any capacity whose availability is at that time conditional upon the satisfaction of any such requirement or requirements as are referred to in paragraph (1) of this article, but subject to the proviso contained in that paragraph.

(3) In this article “specified period” means, in relation to any public electricity supplier, each successive period commencing and ending on the dates specified in paragraphs (a) to (g) in column 2 of Schedule 1 to this Order but so that—

- (a) the first such period shall commence on 1st April 1990 or (where the supplier has made any arrangements as mentioned in paragraph (1)(a) of this article), on the date on which all applicable requirements mentioned in paragraphs (1) to (5) of Schedule 2 to this Order have been satisfied;
- (b) on any such day as is mentioned in paragraph (1)(b) of this article there shall be substituted, in place of any specified period that would otherwise have commenced on that day, a period commencing on such day and expiring (subject to paragraphs (3)(d) and (3)(e) of this article) on the day on which the relevant requirement is either wholly or partially satisfied;
- (c) upon the expiry of any specified period determined in accordance with this paragraph or with paragraph (3)(b) of this article, the next specified period shall commence on the

following day and shall continue, subject to paragraphs (3)(d) and (3)(e) of this article, until the day on which the relevant requirement is either wholly satisfied or further satisfied in part;

- (d) on any such day as is mentioned in paragraph (2)(b) of this article, the then current specified period shall forthwith terminate and shall be followed by a new period commencing immediately upon such termination; and
- (e) any specified period which is current on any of the period end dates specified in column 2 of Schedule 1 to this Order shall expire on that date.

14th February 1990

John Wakeham
Secretary of State for Energy

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Article 3

SPECIFIED AGGREGATE AMOUNTS OF NON-FOSSIL FUEL GENERATING CAPACITY

| (1) Name of supplier | (2) Periods | (3) Aggregate amounts of non-fossil fuel generating capacity |
|---------------------------|---|---|
| 1. London Electricity plc | (a) (a) 1 April 1990 to 31 March 1992 | (a) (a) 855.300 MW |
| | (b) (b) 1 April 1992 to 30 September 1992 | (b) (b) 846.300 MW |
| | (c) (c) 1 October 1992 to 31 March 1995 | (c) (c) 821.800 MW |
| | (d) (d) 1 April 1995 to 30 April 1995 | (d) (d) 785.800 MW |
| | (e) (e) 1 May 1995 to 31 March 1996 | (e) (e) 738.800 MW |
| | (f) (f) 1 April 1996 to 30 June 1996 | (f) (f) 813.900 MW |
| | (g) (g) 1 July 1996 to 31 March 1998 | (g) (g) 771.900 MW |
| 2. SEEBOARD plc | (a) (a) 1 April 1990 to 31 March 1992 | (a) (a) 709.899 MW |
| | (b) (b) 1 April 1992 to 30 September 1992 | (b) (b) 702.429 MW |
| | (c) (c) 1 October 1992 to 31 March 1995 | (c) (c) 682.094 MW |
| | (d) (d) 1 April 1995 to 30 April 1995 | (d) (d) 652.214 MW |
| | (e) (e) 1 May 1995 to 31 March 1996 | (e) (e) 613.204 MW |
| | (f) (f) 1 April 1996 to 30 June 1996 | (f) (f) 675.537 MW |
| | (g) (g) 1 July 1996 to 31 March 1998 | (g) (g) 640.677 MW |
| 3. Southern Electric plc | (a) (a) 1 April 1990 to 31 March 1992 | (a) (a) 1060.572 MW |
| | (b) (b) 1 April 1992 to 30 September 1992 | (b) (b) 1049.412 MW |
| | (c) (c) 1 October 1992 to 31 March 1995 | (c) (c) 1019.032 MW |

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| (1) Name of supplier | (2) Periods | (3) Aggregate amounts of non-fossil fuel generating capacity |
|----------------------------------|---|---|
| 4. South Western Electricity plc | (d) (d) 1 April 1995 to 30 April 1995 | (d) (d) 974.392 MW |
| | (e) (e) 1 May 1995 to 31 March 1996 | (e) (e) 916.112 MW |
| | (f) (f) 1 April 1996 to 30 June 1996 | (f) (f) 1009.236 MW |
| | (g) (g) 1 July 1996 to 31 March 1998 | (g) (g) 957.156 MW |
| | (a) (a) 1 April 1990 to 31 March 1992 | (a) (a) 487.521 MW |
| | (b) (b) 1 April 1992 to 30 September 1992 | (b) (b) 482.391 MW |
| | (c) (c) 1 October 1992 to 31 March 1995 | (c) (c) 468.426 MW |
| | (d) (d) 1 April 1995 to 30 April 1995 | (d) (d) 447.906 MW |
| | (e) (e) 1 May 1995 to 31 March 1996 | (e) (e) 421.116 MW |
| | (f) (f) 1 April 1996 to 30 June 1996 | (f) (f) 463.923 MW |
| 5. Eastern Electricity plc | (g) (g) 1 July 1996 to 31 March 1998 | (g) (g) 439.983 MW |
| | (a) (a) 1 April 1990 to 31 March 1992 | (a) (a) 1171.761 MW |
| | (b) (b) 1 April 1992 to 30 September 1992 | (b) (b) 1159.431 MW |
| | (c) (c) 1 October 1992 to 31 March 1995 | (c) (c) 1125.866 MW |
| | (d) (d) 1 April 1995 to 30 April 1995 | (d) (d) 1076.546 MW |
| | (e) (e) 1 May 1995 to 31 March 1996 | (e) (e) 1012.156 MW |
| | (f) (f) 1 April 1996 to 30 June 1996 | (f) (f) 1115.043 MW |
| | (g) (g) 1 July 1996 to 31 March 1998 | (g) (g) 1057.503 MW |
| 6. East Midlands Electricity plc | (a) (a) 1 April 1990 to 31 March 1992 | (a) (a) 769.770 MW |

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| (1) Name of supplier | (2) Periods | (3) Aggregate amounts of non-fossil fuel generating capacity |
|--------------------------------|---|---|
| | (b) (b) 1 April 1992 to 30 September 1992 | (b) (b) 761.670 MW |
| | (c) (c) 1 October 1992 to 31 March 1995 | (c) (c) 739.620 MW |
| | (d) (d) 1 April 1995 to 30 April 1995 | (d) (d) 707.220 MW |
| | (e) (e) 1 May 1995 to 31 March 1996 | (e) (e) 664.920 MW |
| | (f) (f) 1 April 1996 to 30 June 1996 | (f) (f) 732.510 MW |
| | (g) (g) 1 July 1996 to 31 March 1998 | (g) (g) 694.710 MW |
| 7. Midlands Electricity plc | (a) (a) 1 April 1990 to 31 March 1992 | (a) (a) 829.641 MW |
| | (b) (b) 1 April 1992 to 30 September 1992 | (b) (b) 820.911 MW |
| | (c) (c) 1 October 1992 to 31 March 1995 | (c) (c) 797.146 MW |
| | (d) (d) 1 April 1995 to 30 April 1995 | (d) (d) 762.226 MW |
| | (e) (e) 1 May 1995 to 31 March 1996 | (e) (e) 716.636 MW |
| | (f) (f) 1 April 1996 to 30 June 1996 | (f) (f) 789.483 MW |
| | (g) (g) 1 July 1996 to 31 March 1998 | (g) (g) 748.743 MW |
| 8. South Wales Electricity plc | (a) (a) 1 April 1990 to 31 March 1992 | (a) (a) 299.355 MW |
| | (b) (b) 1 April 1992 to 30 September 1992 | (b) (b) 296.205 MW |
| | (c) (c) 1 October 1992 to 31 March 1995 | (c) (c) 287.630 MW |
| | (d) (d) 1 April 1995 to 30 April 1995 | (d) (d) 275.030 MW |
| | (e) (e) 1 May 1995 to 31 March 1996 | (e) (e) 258.580 MW |

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| (1) Name of supplier | (2) Periods | (3) Aggregate amounts of non-fossil fuel generating capacity |
|--|---|---|
| 9. Manweb plc | (f) (f) 1 April 1996 to 30 June 1996 | (f) (f) 284.865 MW |
| | (g) (g) 1 July 1996 to 31 March 1998 | (g) (g) 270.165 MW |
| | (a) (a) 1 April 1990 to 31 March 1992 | (a) (a) 496.074 MW |
| | (b) (b) 1 April 1992 to 30 September 1992 | (b) (b) 490.854 MW |
| | (c) (c) 1 October 1992 to 31 March 1995 | (c) (c) 476.644 MW |
| | (d) (d) 1 April 1995 to 30 April 1995 | (d) (d) 455.764 MW |
| | (e) (e) 1 May 1995 to 31 March 1996 | (e) (e) 428.504 MW |
| 10. Yorkshire Electricity Group plc | (f) (f) 1 April 1996 to 30 June 1996 | (f) (f) 472.062 MW |
| | (g) (g) 1 July 1996 to 31 March 1998 | (g) (g) 447.702 MW |
| | (a) (a) 1 April 1990 to 31 March 1992 | (a) (a) 701.346 MW |
| | (b) (b) 1 April 1992 to 30 September 1992 | (b) (b) 693.966 MW |
| | (c) (c) 1 October 1992 to 31 March 1995 | (c) (c) 673.876 MW |
| | (d) (d) 1 April 1995 to 30 April 1995 | (d) (d) 644.356 MW |
| | (e) (e) 1 May 1995 to 31 March 1996 | (e) (e) 605.816 MW |
| 11. Northern Electric plc | (f) (f) 1 April 1996 to 30 June 1996 | (f) (f) 667.398 MW |
| | (g) (g) 1 July 1996 to 31 March 1998 | (g) (g) 632.958 MW |
| | (a) (a) 1 April 1990 to 31 March 1992 | (a) (a) 453.309 MW |
| 11. Northern Electric plc | (b) (b) 1 April 1992 to 30 September 1992 | (b) (b) 448.539 MW |

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| (1) Name of supplier | (2) Periods | (3) Aggregate amounts of non-fossil fuel generating capacity |
|-------------------------|---|---|
| | (c) (c) 1 October 1992 to 31 March 1995 | (c) (c) 435.554 MW |
| | (d) (d) 1 April 1995 to 30 April 1995 | (d) (d) 416.474 MW |
| | (e) (e) 1 May 1995 to 31 March 1996 | (e) (e) 391.564 MW |
| | (f) (f) 1 April 1996 to 30 June 1996 | (f) (f) 431.367 MW |
| | (g) (g) 1 July 1996 to 31 March 1998 | (g) (g) 409.107 MW |
| 12. NORWEB plc | (a) (a) 1 April 1990 to 31 March 1992 | (a) (a) 718.452 MW |
| | (b) (b) 1 April 1992 to 30 September 1992 | (b) (b) 710.892 MW |
| | (c) (c) 1 October 1992 to 31 March 1995 | (c) (c) 690.312 MW |
| | (d) (d) 1 April 1995 to 30 April 1995 | (d) (d) 660.072 MW |
| | (e) (e) 1 May 1995 to 31 March 1996 | (e) (e) 620.592 MW |
| | (f) (f) 1 April 1996 to 30 June 1996 | (f) (f) 683.676 MW |
| | (g) (g) 1 July 1996 to 31 March 1998 | (g) (g) 648.396 MW |

SCHEDULE 2

Article 4(1)

CONDITIONS PRECEDENT

The requirements referred to in article 4(1)(a) of this Order are—

(1) that the property, rights and liabilities of the Area Boards established under the Electricity Act 1947 have been transferred to the public electricity suppliers;

(2) that such of the property, rights and liabilities of the Central Electricity Generating Board and the Electricity Council as are to be transferred to the operators of the relevant non-fossil fuel generating stations have been transferred in accordance with schemes made under section 66 of the Act;

(3) that the operator of any relevant non-fossil fuel generating station or stations has entered into, and there has come into force, agreements with the National Grid Company plc (registered in England No. 2366977) and, where applicable, any relevant public electricity supplier in relation to

for the connection of such non-fossil fuel generating station or stations to the national grid system and, where applicable, to any other relevant system of electric lines and electrical plant;

(4) that the operator of any relevant non-fossil fuel generating station or stations and all public electricity suppliers have entered into, and there has come into force, a pooling and settlement agreement, as required by the licences granted to them under section 6 of the Act, for the purpose of calculating the payments due to or owing by the parties thereto in respect of their production and consumption of electricity;

(5) that section 33 regulations have been made and have come into force;

(6) to the extent that the arrangements relate to a relevant non-fossil fuel generating station which has not generated electricity before the coming into force of this Order—

(i) that the operator of the relevant non-fossil fuel generating station has been granted consent by the Nuclear Installations Inspectorate to take the station to commercial power in accordance with the site licence granted under the Nuclear Installations Act 1965 in respect of that generating station; and

(ii) that the declared net capacity of the relevant non-fossil fuel generating station has not been reduced, prior to being taken to commercial power in accordance with such a site licence, below the amount attributed to that station in the relevant arrangements.

Note:

In the above provisions—

“the Act” means the Electricity Act 1989;

“section 33 regulations” means regulations under section 33 of the Act; and the reference to the Nuclear Installations Inspectorate is a reference to the part so known of the Health and Safety Executive, established under the Health and Safety at Work etc. Act 1974.

SCHEDULE 3

Article 4(2)

TERMINATION EVENTS

The events referred to in article 4(2)(a) of this Order are—

(1) the operator of any relevant non-fossil fuel generating station ceasing for any reason to be authorised by a licence or exemption granted under the Act to generate electricity for the purposes of giving a supply to any premises or enabling a supply to be given;

(2) the operator of any relevant non-fossil fuel generating station defaulting in any material respect in the performance of any of its obligations to make non-fossil fuel generating capacity available under the arrangements and in the case of a default which is, in the opinion of the relevant public electricity supplier (acting reasonably), capable of remedy continuing to be in default at the expiry of 60 days following the date on which the supplier shall have given notice thereof to the operator;

(3) a binding order being made or an effective resolution being passed for the winding up of the operator of any relevant non-fossil fuel generation station (otherwise than for the purposes of reconstruction or amalgamation on terms previously approved in writing by the relevant public electricity supplier (whose approval shall not unreasonably be withheld) and within 60 days of his appointment the liquidator of the operator not having provided to the supplier a guarantee of performance of the obligations of the operator under the arrangements in such form and amount as the supplier (acting reasonably) may require.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Note:

In the above provisions, “the Act” means the Electricity Act 1989.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order imposes on public electricity suppliers in England and Wales an obligation to make arrangements to secure the availability during specified periods of specified aggregate amounts of generating capacity from non-fossil fuel generating stations. The arrangements must be made, and evidence of their making must be produced to the Director General of Electricity Supply, before 1st April 1990.

Article 2 requires that the capacity come from nuclear generating stations. Article 3 imposes the obligation and introduces Schedule 1 in which are specified, in relation to each public electricity supplier, the periods and amounts of capacity whose availability is to be secured. The amounts are specified in megawatts (one megawatt equals one million watts). Article 4 provides a mechanism whereby, if certain conditions are not satisfied (see Schedule 2) or if certain events occur (see Schedule 3), the Order is to have effect as if the relevant period specified in column 2 of Schedule 1 were replaced by a different period and, as a consequence of that, as if the relevant amount of capacity specified in column 3 of Schedule 1 were a reduced amount, the amount of the reduction being the amount of capacity which has ceased to be available by reason of (as the case may be) the condition not having been satisfied or the event having occurred.