
STATUTORY INSTRUMENTS

1997 No. 799

The Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1997

Citation, commencement and application

1.—(1) This Order may be cited as the Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1997 and shall come into force on 14th March 1997.

(2) This Order does not apply to England and Wales.

Interpretation

2.—(1) In this Order—

“the Act” means the Electricity Act 1989;

“commissioning process” means the process consisting of such procedures and tests as from time to time constitute usual industry standards and practices for commissioning a non-fossil fuel generating station of any description specified in Schedule 1 in order—

- (a) to demonstrate that such a non-fossil fuel generating station is—
- (i) capable of commercial operation; or
 - (ii) in the case of a non-fossil fuel generating station which is the subject of relevant arrangements, capable of commercial operation for the purpose of such arrangements;
- (b) to establish the external physical conditions outside the control of the operator which are necessary for the operation of such station or which control the amount of electricity produced by the station; and
- (c) to establish the operating parameters within which such station can be operated in accordance with practices, methods and procedures which are or should be adopted by a person exercising that degree of judgment, skill, diligence and foresight which would ordinarily and reasonably be expected from a skilled and experienced operator engaged in the business of operating such a station lawfully;

“generating set” means a prime mover and alternator;

“industrial waste” includes food-processing waste;

“operator” means an operator of any relevant non-fossil fuel generating station;

“premium price arrangement” means an arrangement made before the day on which this Order is made under which a public electricity supplier or a person on behalf of a public electricity supplier agrees to purchase electricity generated by a non-fossil fuel generating station at any time in the period commencing on 21st July 1993 and ending on 31st March 2012 (whether or not the agreement covers other periods) for a fixed price per kilowatt-hour (kWh) and for this purpose any provision for adjustment of the price by reference to any measure of inflation shall be disregarded;

“relevant arrangements” means arrangements evidence of the making of which is produced to the Director in accordance with article 3(1);

“relevant non-fossil fuel generating station” means a generating station with an installed capacity not exceeding 15 megawatts, of a description specified in Schedule 1 and falling within the description of non-fossil fuel generating station specified in article 3(2); and
“waste to energy generating station” has the meaning given to it in paragraph 3(2) of Schedule 1.

(2) In Schedule 1–

(a) where a definition refers to generating stations which are fuelled by a particular non-fossil fuel or fuels, this includes generating stations which use fossil fuel for one or more of the following purposes–

(i) the ignition of gases of low or variable calorific value;

(ii) the heating of the combustion system to its normal operating temperature or the maintenance of that temperature;

(iii) emission control;

provided that in any period shown in tables A to D in Schedule 1, the energy content of the fossil fuel, that is to say the gross calorific value of that fuel (as expressed by weight or by volume) multiplied by the weight or volume of that fuel, used in the generating station does not exceed 10% of the energy content of all the fuel used; and

(b) the specified amounts of generating capacity are expressed in megawatts.

(3) In this Order, unless the content otherwise requires any reference–

(a) to a numbered article is to the article bearing that number in this Order;

(b) in an article to a numbered paragraph is to the paragraph bearing that number in that article; and

(c) to a numbered Schedule is to the Schedule to this Order bearing that number.

Requirement to make arrangements etc.

3.—(1) Each public electricity supplier in Scotland shall before 1st May 1997 make, in so far as he has not already done so, and produce to the Director evidence showing that he has made such additional arrangements as will secure that for each period shown in tables A to D in Schedule 1 the aggregate amount of generating capacity available to him from the non-fossil fuel generating stations of the description specified in relation to each table and falling within the description of non-fossil fuel generating station specified in paragraph (2), will not be less than the amount specified in that table in relation to him for that period.

(2) The description of non-fossil fuel generating station specified in this paragraph is either–

(a) a non-fossil fuel generating station, other than a waste to energy generating station which is fuelled as specified in sub-paragraph (a) of paragraph 3(2) of Schedule 1, and in respect of which–

(i) the commissioning process was not satisfactorily completed before 2nd November 1995;

(ii) there is not and has not been a premium price arrangement, other than a relevant arrangement, under which any payment has been or may be made in respect of electricity generated before 1st April 2012 by such station; and

(iii) the commissioning and operation would not reduce the declared net capacity of any other non-fossil fuel generating station existing at its planned commissioning date; or

(b) a waste to energy generating station which–

(i) is fuelled as specified in sub-paragraph (a) of paragraph 3(2) of Schedule 1; and

(ii) has new foundations;

but which may use an existing gas collection system, provided that, during the period of the relevant arrangements entered into in relation to that generating station, it—

- (a) will not adversely affect the supply of gas to another generating set which is connected to that system; and
- (b) would not have adversely affected the supply of gas to another generating set which was connected to that system at 2nd November 1995 but is no longer so connected.

4.—(1) Where—

- (a) any relevant arrangements provide that the availability to a public electricity supplier of some of all of the generating capacity of a non-fossil fuel generating station is conditional upon the satisfaction of any requirement described in Schedule 2 (conditions precedent) whether the requirement is described in the terms of that Schedule or in terms to the like effect; and
- (b) on the first day of any specified period, some or all of that capacity is not available to the supplier, by reason of any such requirement not being satisfied as was then due, or had previously been due on or prior to such date, under those arrangements to have been satisfied,

then in relation to any day during that or any subsequent specified period ascertained in accordance with paragraph (3), this Order shall have effect as if the relevant aggregate amount specified in relation to that subsequent period were the amount specified in relation to that supplier for the period which includes that day in the table in question in Schedule 1 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); 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 that specified period.

(2) Where—

- (a) any relevant arrangements provide that some or all of the generating capacity to be made available under those arrangements may reduce or cease to be available to a public electricity supplier following the occurrence of any event mentioned in Schedule 3 (termination events) whether the event is described in the terms of that Schedule or in terms to the like effect; and
- (b) some or all of that capacity is not available to the supplier, on a day during a specified period, because such an event has occurred,

the specified period shall forthwith terminate and, in relation to any day during any subsequent specified period ascertained in accordance with paragraph (3) this Order shall have effect as if the relevant aggregate amount specified in relation to that subsequent period were the amount specified in relation to that supplier for the period which includes that day in the table in question in Schedule 1, 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), but subject to the proviso contained in that paragraph.

(3) In this article “specified period” means, in relation to any public electricity supplier, a period commencing and ending on the dates specified in a table in Schedule 1 but so that—

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- (a) on any such day as is mentioned in paragraph (1)(b) 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 sub-paragraphs (c) and (d) of this paragraph) on the day on which the requirement mentioned in paragraph (1)(b) above is satisfied either wholly or in part;
- (b) upon the expiry of any specified period ascertained in accordance with this sub-paragraph or with sub-paragraph (a) of this paragraph, the next specified period shall commence on the following day and shall continue, subject to subparagraphs (c) and (d) of this paragraph, until the day on which the requirement mentioned in paragraph (1)(b) is either wholly satisfied or further satisfied in part;
- (c) on any such day as is mentioned in paragraph (2)(b), the then current specified period shall forthwith terminate and shall be followed by a new period commencing immediately upon such termination; and
- (d) any specified period which is current on any of the period end dates specified in the table shall expire on that date.

St Andrew's House,
Edinburgh
12th March 1997

George Kynoch
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Office