
STATUTORY INSTRUMENTS

2001 No. 3269

**The Electricity from Non-Fossil Fuel Sources
(Scotland) Saving Arrangements Order 2001**

Modification of section 33

9.—(1) Section 33 of the Electricity Act 1989⁽¹⁾ (as it continues to have effect in Scotland by virtue of article 11 of the Electricity from Non-Fossil Fuel Sources Saving Arrangements Order 2000⁽²⁾ and notwithstanding its repeal by section 66 of the Utilities Act 2000) shall be modified as set out in the following paragraphs of this article.

(2) In subsection (1) replace the words from and including “Where” to “provide” with “The Scottish Ministers may by regulations provide”.

(3) In subsection (1) paragraphs (a) and (c) shall be replaced with the following—

“(a) for the imposition on electricity suppliers of a levy in respect of each qualifying month;”;

“(c) for the making of payments by that person to any supply successor company, out of the payments so collected.”.

(4) Delete subsections (3) and (4).

(5) Subsections (5) and (6) shall be replaced with the following—

“(5) The amount of any payment required to be made to a supply successor company by regulations under this section shall be the difference between—

(a) the total cost incurred by the supply successor company in purchasing electricity which was generated in pursuance of qualifying arrangements; and

(b) what would have been the total cost of generating that electricity if it had been generated by a fossil fuel generating station,

calculated (in each case) by such method and with reference to such periods of time as may be specified by regulations under this section.

(5A) Where the cost referred to in subsection (5)(b) is greater than the cost referred to in subsection (5)(a) the difference shall be paid by the supply successor company to the prescribed person referred to in subsection (1)(b), such sum being calculated by such method as may be specified by regulations under this section.

(6) Regulations under this section may—

(a) impose requirements (whether as to the furnishing of records or other information or the affording of facilities for the examination and testing of meters or otherwise) on a supply successor company and on persons authorised by a licence to supply, transmit, distribute or generate electricity;

(b) make provision as to the times at which payments falling to be made in pursuance of the regulations (whether payments by way of levy or payments to or by a supply successor company) are to be so made;

(1) Section 33 has been amended by S.I.1997/1185, the Fossil Fuel Levy Act 1998 (1998 c. 5) and S.I. 2000/2727.

(2) S.I. 2000/2727.

- (c) require the amount of any overpayment or underpayment which is made by or to any person (whether it arises because an estimate turns out to be wrong or otherwise) to be set off against or added to any subsequent liability or entitlement of that person.”.
- (6) In subsection (7) replace the words “each public electricity supplier” with “the supply successor company”.
- (7) Replace subsection (7A) with the following—
 - “(7A) In this section, references to qualifying arrangements in relation to a supply successor company are to arrangements which—
 - (a) are new arrangements, as defined in the Electricity from Non-Fossil Fuel Sources (Scotland) Saving Arrangements Order 2001; and
 - (b) satisfy such other requirements as may be specified in regulations made under this section.”.
- (8) Delete subsection (7B).
- (9) Subsection (8) shall be replaced with the following—
 - “(8) In this section—
 - “fossil fuel generating station” means a generating station fuelled by a fossil fuel;
 - “leviable electricity” means electricity which—
 - (a) is generated by a fossil fuel generating station;
 - (b) is generated by a generating station fuelled by nuclear fuel; or
 - (c) is generated in pursuance of qualifying arrangements by a generating station fuelled or driven otherwise than by a fossil fuel or nuclear fuel;
 - “public electricity supplier” means a person who, prior to 1st October 2001, was authorised by a licence to supply electricity under section 6(1)(c) of this Act (as that provision had effect immediately before the coming into force of section 30 of the Utilities Act 2000) and whose “authorised area” (as defined in section 6(9) of this Act as that provision had effect immediately before the coming into force of section 30 of the Utilities Act 2000) was situated wholly or mainly in Scotland;
 - “qualifying month” in relation to an electricity supplier means a month beginning on or after the day appointed by the first order under section 32 above (as that provision was originally enacted) except that in relation to section 33(7) where a company is acting in its capacity as a supply successor company it shall mean a month beginning on or after 1st October 2001;
 - “supply successor company” means a person who became the holder of a supply licence under section 6(1)(d) of this Act on 1st October 2001 by virtue of a licensing scheme made in relation to a public electricity supplier under Part II of Schedule 7 to the Utilities Act 2000 or such other person who has become a supply successor company by virtue of article 6(3) of the Electricity from Non-Fossil Fuel Sources (Scotland) Saving Arrangements Order 2001.”.
- (10) After subsection (9) insert the following—
 - “(10) Regulations under this section may include transitional measures making provision for payments of levy due to or from a public electricity supplier to be paid to or by the relevant supply successor company, where entitlement to such payments accrued under this section before 1st October 2001.”.