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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order imposes an obligation (“the renewables obligation”) on all electricity suppliers, licensed under the Electricity Act 1989 (“the Act”) which supply electricity in England and Wales, to produce a certain number of renewables obligation certificates in respect of each megawatt hour of electricity that each supplies to customers in England and Wales during a specified period known as an obligation period (article 5). It also “bands” the different technologies that are used to generate electricity from renewable sources, meaning that the number of certificates that will be issued in respect of that electricity depends on the way in which that electricity has been generated. The renewables obligation is administered by the Gas and Electricity Markets Authority (“the Authority”) who issue renewable obligation certificates to renewable electricity generators on their renewable output. These certificates are sold to electricity suppliers with or without the associated renewable electricity.

Alternatively, instead of producing the required number of certificates in respect of all or part of their renewables obligation, a supplier is permitted to make a payment to the Authority (articles 43 and 44).

Part 1 sets out the interpretation provisions for the Order, and defines biomass and waste. In particular, article 3 specifies, as provided for in section 32M of the Act, that waste constitutes a renewable source if not more than 90% of it is, or is derived from, fossil fuel. It also sets out how the proportion of waste which is, or is derived from, fossil fuel is to be determined and includes specific provisions relating to municipal waste.

Article 4 defines biomass and also sets out the circumstances in which a fuel (not being biomass), may be treated as biomass by virtue of being used in a generating station with biomass. It also provides how the proportion of biomass which is composed of fossil fuel is to be determined.

Part 2 sets out how the renewables obligation is calculated and what a supplier needs to do to meet their obligation. In particular, articles 6 to 10 set out the calculations that the Secretary of State must undertake before the start of each obligation period (apart from the 2009/10 obligation period) to determine the total UK renewables obligation for that period.

Article 11 sets out the circumstances where each calculation is to be used to determine the total obligation for electricity suppliers in England and Wales.

Article 12 determines the number of renewables obligation certificates to be produced by individual electricity suppliers to discharge their renewables obligation. Paragraph (4) of this article requires the Secretary of State to publish by the 1st of October preceding an obligation period the number of renewables obligation certificates that a supplier will be required to produce in respect of each megawatt hour of electricity that it supplies to customers in England and Wales.

Article 13 provides for an electricity supplier to discharge its renewables obligation by the production to the Authority of a Northern Ireland certificate. This article also sets out the co-firing cap i.e. licensed suppliers are not able to meet more than a specified proportion of their obligation by presenting renewables obligation certificates issued in respect of electricity generated by a generating station fuelled or driven partly by renewable sources and partly by fossil fuel.

In Part 3, article 15 sets out those conditions that need to be met for electricity to be regarded as having been supplied to customers in Great Britain or Northern Ireland for the purposes of section 32B(3) to (6) of the Act. Article 16 sets out when electricity is to be regarded as being used in a permitted way for the purposes of section 32B(7) and (8) of the Act.

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In Part 4, articles 17 to 23 set out circumstances in which ROCs are not to be issued.

In Part 5, articles 24 and 25 set out how the number of ROCs relating to a generating station's renewable output is to be calculated. Article 26 makes specific modifications for qualifying combined heat and power generating stations.

In Part 6, articles 27 to 31 are the "banding provisions", which govern the amount of electricity in respect of which each ROC is to be issued. Article 27 contains the general rule, which is that the amount of electricity in respect of which a ROC is to be issued depends upon the way in which the electricity was generated, and is set out in Part 2 of Schedule 2. There are special provisions governing ROCs issued to qualifying combined heat and power generating stations (article 28), microgenerators (article 29), generating stations which were accredited as at 11th July 2006 (article 30), and generating stations which were accredited or held preliminary accreditation as at 31st March 2009 (article 31).

Article 32 sets out conditions which must be satisfied before the "banding provisions" apply to certain generating stations in respect of which a statutory grant has been awarded. Article 33 provides for the Secretary of State to review the banding provisions at four yearly intervals, with the first review commencing in October 2010. A review may also occur at any other time if any of the circumstances set out in article 33(3) arise.

In Part 7, articles 34 to 40 provide for the issue of ROCs – that is to say, renewables obligation certificates issued under this Order – by the Authority. Article 41 provides for the revocation of ROCs in certain circumstances.

Where suppliers discharge their renewables obligation (in whole or in part) by making payments to the Authority, the payments are held in the buyout and late payment funds. Part 8 sets out how the buyout and late payment funds are to be handled. Articles 45 and 46 require the Authority to make payments from those funds into the consolidated fund and to the Northern Ireland Authority to pay for the costs of administering the renewables obligation. Once these payments have been made, the remainder of the money in the funds is paid to UK suppliers, who have discharged their renewables obligation (in whole or in part) by presenting renewables obligation certificates, in accordance with article 47. The exception to this occurs where £50,000 or less is all that is held in the late payment fund, in which case that amount will be retained by the Authority and will be paid out in the following obligation period (article 46).

Part 8 also contains "mutualisation" provisions (articles 48 to 52). These provisions deal with a situation where the amount held in the buyout and late payment funds is less than the amount that should be held in those funds. Such a situation would only occur where a licensed supplier failed to discharge its renewables obligation by presenting certificates and/or making payments as required by the Order.

Part 9 makes provision concerning information which is to be provided to the Authority (articles 53 and 54), which is to be provided to the Secretary of State (article 55), and which is to be exchanged with the Northern Ireland Authority (article 56). It also sets out functions to be discharged by the Authority, in addition to those it is required to discharge in order to administer the renewables obligation (article 57).

Article 58 provides for the preliminary accreditation and accreditation of generating stations. In order to be eligible to claim ROCs in respect of electricity generated from eligible renewable sources, a generating station must have obtained accreditation from the Authority.

Article 60 modifies the provisions of specific articles in this Order to enable a microgenerator to be able to claim ROCs on an annual rather than a monthly basis.

Article 61 revokes the Renewables Obligation Order 2006 ("the 2006 Order") and the Renewables Obligation Order 2006 (Amendment) Order 2007. The provisions of the 2006 Order are saved in respect of all outstanding obligations or requirements imposed by it.

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A full regulatory impact assessment of the effect that this Order will have on the costs of business and the voluntary sector is available from the Renewables Financial Incentives Team, Department of Energy and Climate Change, 1 Victoria Street, London SW1H 0ET and is annexed to the Explanatory Memorandum which is available alongside this Order on the OPSI website.

The 2006 Order revoked and re-enacted the Renewables Obligation Order 2005 ([S.I. 2005/926](#)) (“the 2005 Order”). The 2005 Order had revoked and re-enacted the Renewables Obligation Order 2002 ([S.I. 2002/914](#)) (“the 2002 Order”). The 2002 Order was modified by the Renewables Obligation Order 2004 ([S.I. 2004/924](#)). The 2002 Order gave effect to article 3.1 of the European Directive on the promotion of electricity produced from renewable energy sources in the internal market (Directive [2001/77/EC](#)) (OJ L 283, 27.10.2001, p. 33). A transposition note setting out how the main elements of this Directive have been transposed into United Kingdom law is available from the Renewables Financial Incentives Team, Department of Energy and Climate Change at the above address. This Order does not raise any new transposition issues. Copies of the transposition note have been placed in the libraries of both Houses of Parliament.