EXPLANATORY MEMORANDUM TO

THE RENEWABLES OBLIGATION ORDER 2006 (AMENDMENT) ORDER

2007 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 The draft Renewables Obligation Order 2006 (Amendment) Order 2007 ("the 2007 Order") amends the Renewables Obligation Order 2006 (SI 2006/1004 – the "2006 Order"). The 2006 Order is the Government's main policy measure to encourage the development of electricity generating capacity using renewable sources of energy in the UK. The 2006 Order revoked and re-enacted the Renewables Obligation Order 2005 (SI 2005/926 – the "2005 Order"). Previously the 2005 Order had revoked and re-enacted the Renewables Obligation Order 2002 (SI 2002/914 – the "2002 Order"), as modified by the Renewables Obligation Order 2004 (SI 2004/924 – the "2004 Order"). The changes in the 2007 Order follow a statutory consultation and include amendments for small generators; removal of the requirement for an arrangement called "sale and buyback"; a change to the rules on co-firing; a change to the definition of an energy crop; and a change to fuel to be treated as biomass.

3. Matters of special interest to the Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The 2007 Order is made under sections 32 to 32C of the Electricity Act 1989 (the "1989 Act") and applies in relation to suppliers of electricity in England & Wales. The 1989 Act was amended by the Climate Change and Sustainable Energy Act 2006 (the "2006 Act"). Sections 23 and 24 of the 2006 Act amended the 1989 Act so as to provide more extensive powers. The draft 2007 Order makes use of these more extensive powers by:

- Enabling a licensed electricity supplier to discharge its renewables obligation by producing Renewable Obligation Certificates (ROCs) relating to renewable electricity which was not supplied to customers by it or any other licensed electricity supplier. This is achieved through new article 13A (which is inserted into the 2006 Order by article 10 of the draft 2007 Order).
- Enabling certain generators to appoint an agent to receive any ROCs to which they are entitled. This is achieved through new article 15A (which is inserted into the 2006 Order by article 13 of the draft 2007 Order). This has required

consequential amendments to the 2006 Order to be made, in particular, by the new article 17A (which is inserted into the 2006 Order by article 16 of the draft 2007 Order).

- Enabling a ROC to relate to renewable electricity generated by two or more generating stations if certain criteria are met. This is achieved through new articles 16(8A) and 17B (which are inserted into the 2006 Order by articles 14(5) and 16 of the draft 2007 Order).

4.2 Further changes to the 2006 Order have also been made which fall outside those made using the new powers in the 2006 Act. These are:

- The amendment of the definition of "energy crops" in article 2 of the 2006 Order. This is achieved through article 3(2) of the draft 2007 Order.
- Allowing certain fuels which are not biomass now to be treated as biomass. This is achieved through new paragraphs (1A) and (1B) (which are inserted into article 2 of the 2006 Order by article 3(3) of the draft 2007 Order).
- The insertion into article 14 of the 2006 Order of a new paragraph (2A) dis-applying the limits set out in paragraph (2) of that article in relation to electricity generated by energy crops. This is achieved through article 11 of the draft 2007 Order.

4.3 There also exists Renewables Obligations in Scotland and Northern Ireland, the Renewables Obligation (Scotland) Order 2006 (ROS) and the Northern Ireland Renewables Obligation Order 2006 (NIRO). Corresponding amendments are now being proposed to the ROS and NIRO to reflect those amendments being made to the 2006 Order.

4.4 The 2002 Order transposed certain requirements in article 3 of Directive 2001/77/EC ("the Directive") of the European Parliament and of the Council. The draft 2007 Order does not raise any new transposition issues as compared with the 2002 Order.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales only.

6. European Convention on Human Rights

The Parliamentary Under Secretary of State for Energy, Lord Truscott, has made the following statement regarding Human Rights:

In my view the provisions of the draft Renewables Obligation Order 2006 (Amendment) Order 2007 are compatible with the Convention rights.

7. Policy background

7.1 The 2006 Order is the Government's main policy measure to encourage the development of electricity generating capacity using renewable sources of energy in the UK. It is intended to provide an impetus for new generating capacity that

will be required to meet our current targets for electricity generated from renewable energy sources ("renewables electricity") of 10% by 2010, and as a basis for further reductions in carbon dioxide emissions.

7.2 The 2007 Order makes some changes to the Obligation following representations from industry. In brief the changes are:

a) to allow agents to act on behalf of small generators (50kW and under) when participating in the RO.
b) to require agents who are acting on behalf of two or more small generators of the same technology to amalgamate the output of those generators.
c) to remove the necessity for generators who themselves consume the electricity which they generate to obtain what are known as "sale and buyback agreements" in order to claim ROCs.
d) a change to the rules on co-firing which would allow the burning of energy crops and fossil fuel to take place outside the existing co-firing caps.
e) a new definition for energy crops.
f) a change to enable a fuel which is not biomass to be treated as biomass when it is used with at least one other fuel and 90% or more of the energy content of those fuels is derived from biomass.

7.3 These changes are proposed following a statutory consultation between 9 October and 15 December 2006. Responses to the consultation were generally supportive of all these changes with the proposals for allowing agents to act on behalf of generators receiving universal support.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 The impact on the public sector will be to increase, in the short-term, the administrative burden on Ofgem who administer the Obligation as they will need to put in place new processes to accommodate these changes. In the long-term these changes may reduce the administrative burden on Ofgem as they simplify some of the processes that generators and suppliers have to complete in order to benefit from the Obligation.

8.3 The 1989 Act requires Government to consult, before the Order is made, with certain bodies, the statutory consultees, comprising The Gas and Electricity Markets Authority, the Gas and Electrictiy Consumer Council, electricity suppliers to whom it would apply and generators of electricity from renewable sources and such other persons, if any, as the Secretary of State considers appropriate.

9. Contact

Nicola Barber at the Department of Trade and Industry Tel: 020 7215 2651 or e-mail: Nicola.barber@dti.gsi.gov.uk can answer any queries regarding the instrument.

Regulatory Impact Assessment for the
Renewables Obligation Order 2006 (Amendment) Order 2007

1. Title of Proposed Regulation

1.1 Renewables Obligation Order 2006 (Amendment) Order 2007.

2. Purpose And Intended Effect Of Measure

Objective

2.1 The objective of the Amendment Order 2007 (2007 Order) is to simplify some of the processes which participants in the Renewables Obligation (RO) currently have to follow and to extend the financial benefits available to some generators, in particular small generators and energy crop co-firing generators. This will be achieved through some limited changes to the existing Renewables Obligation Order 2006.

2.2 The proposals will affect all licensed electricity suppliers, all RO eligible electricity generators and Ofgem who administer the RO.

Background

2.3 The Renewables Obligation was introduced in 2002 and is the Government's main policy measure to encourage the development of electricity generation capacity using renewable energy sources in the UK. It is underpinned by a substantial package of financial and non-financial supporting mechanisms and active assistance to the industry to develop its competitive potential. The Obligation has already provided, and will continue to provide, an impetus for the new renewable generating capacity that will be needed to meet the UK's current 10% by 2010 target for electricity produced from renewable energy sources and as a basis for further reductions in carbon dioxide emissions.

2.4 The details of the Obligation are contained in the Renewables Obligation Order 2006 in England and Wales, the Renewables Obligation (Scotland) Order 2006 in Scotland, and the Northern Ireland Renewables Obligation Order 2006. RIAs were produced for the implementation of the Obligation in England & Wales and Scotland in 2002; the amendments to the Obligation in 2004; the new powers set out in the Energy Act 2004; the Consolidated Orders in 2005 and 2006; and the new powers in the Climate Change and Sustainable Energy Act 2006.

2.5 The Renewables Obligation is a key part of the Government's policies to reduce CO2 emissions and tackle climate change. The Obligation requires licensed electricity suppliers to ensure that specified and increasing amounts of the electricity they supply are from renewable sources. For 2006/07, this level is 6.7% and under current legislation rises to 15.4% in 2015/16. Without the financial support provided by the Obligation, most forms of renewable electricity would not be economic and the Government would not achieve its targets for increasing the supply of electricity from renewable sources. The Government believes that, through the support of the Obligation, renewable sources of electricity will play an increasing part in the Government's efforts to reduce carbon emissions and address climate change.

Problem to be addressed

2.6 Where Government becomes aware of simplifications or changes to the RO which will make it easier for generators and suppliers to participate it will aim to implement them. The individual proposals for change and the reasons behind them are addressed in Section 3 below.

Regulatory Burdens & Compensatory Simplification

2.7 The major regulatory burden imposed by the Renewables Obligation is that, in order to provide additional support for the generation of electricity from renewable sources, costs to all electricity consumers are increased. These costs are capped by the level of the Renewables Obligation and the level of the "buyout" price in the RO. The previous RIAs referred to in paragraph 2.4 above considered the costs and benefits of the introduction and subsequent extension of the Renewables Obligation at the time that those measures were introduced.

2.8 Aside from issues of costs to consumers, the Renewables Obligation imposes some regulatory burdens on renewable generators and the electricity supply industry in relation to the administration that is required to benefit from and comply with the scheme. The amendments in the 2007 Order will include a small number of detailed changes that will make it easier for renewable generators to benefit from the Obligation. This will reduce the regulatory burdens on business and reduce the administrative processes for microgenerators who can be individuals as well as businesses. In the short-term there will be an increased administrative burden on Ofgem while they adjust their processes to take account of the changes, however this may be offset in the longer term by the deregulatory nature of the changes being introduced.

2.9 In total, these changes aim to improve the operation of the scheme and its effectiveness in meeting the Government's renewable energy targets. Some of the changes are deregulatory in nature and seek to reduce administrative costs for the administrator of the RO, Ofgem, renewable energy generators and electricity suppliers.

3. Options, Costs and Benefits

3.1 It is proposed to make amendments to the RO in the following areas:

- Allowing agents to act on behalf of small generators (50kW DNC or less) in all aspects of RO participation
- Requiring agents, for the purposes of claiming ROCs, to amalgamate the electricity generated by two or more small generators (50kW DNC or less)
- Removal of the requirement for a sale and buyback agreement for all generators
- Changing the rules on co-firing to remove the cap on co-firing of energy crops and a minor amendment to the definition of an energy crop.
- A change to the definition of biomass so that where more than one fuel which are not fossil fuels (as defined in Article 8 of the RO Order) are used in a power station, as long as 90% of the total energy content of those fuels is derived from biomass then those fuels will be treated as biomass fuels for the purposes of establishing ROC eligibility.

Administrative arrangements for smaller generators

What are the proposals?

3.2 The Government proposes to introduce measures that will make it easier for small generators to benefit from the Obligation (in this context small generators are those with a declared net capacity of 50 kW or less).

3.3 Two changes are proposed:

a) allowing agents to act on behalf of smaller generators in seeking accreditation and claiming of ROCs and that these ROCs are then issued to the agent; and
b) allowing ROCs to be issued to agents; and allowing agents to amalgamate the output of smaller generators for the purposes of claiming ROCs.

Why is it being proposed and what are the benefits?

3.4 In 2005, as part of the RO Review, the Government held two consultations – a preliminary consultation and a statutory consultation. In both these consultations, the Government included the proposals to allow agents to act on behalf of small generators and to also allow agents to amalgamate the output of small generators. These proposals received strong support from those who responded to the consultations on these issues. Although many of the proposals in the RO Review were implemented from 1 April 2006 in the Renewables Obligation Order 2006, this was not possible for the small generator changes, as they required primary legislation. The Government has now secured the primary legislation needed through the Climate Change and Sustainable Energy Act 2006 and now intends to implement the proposals in the secondary legislation from 1 April 2007.

3.5 There are concerns within the microgeneration sector that there are significant barriers to microgenerators being able to access the benefits of the RO due to the administrative requirements of the scheme. This can affect their ability to obtain ROCs in the first instance and then sell these on in the second. In its response to the 2007 Order statutory consultation the Micropower Council state that *"… a supplier has indicated that it currently applies for ROCs for only ~1% of its eligible microgeneration customer base."*

3.6 The changes that allow agents to act on behalf of generators should reduce administrative burdens on small and micro-generators – and provide them with the option of an easier route to obtaining the benefits of ROC eligibility. It would also mean that ROCs could be issued direct to agents and so arrangements for trading of ROCs would pass to the agent rather than lying with the generator.

3.7 In terms of amalgamating generation, there are additional benefits. Under current rules, where a small generator is only generating very small amounts of electricity they may not even reach the threshold required to claim one ROC. Alternatively, although they are generating enough to be able to claim a small number of ROCs, the numbers involved do not make it worthwhile going through the accreditation and other administrative processes required. Amalgamating generation will allow economies of scale in the administrative processes for small generators. It will also allow small generators who may not otherwise be generating enough to claim ROCs to combine their output with that of others and so access the financial benefits of the RO. An example is set out below.

3.8 <u>Scenario 1 – using existing rules</u>: Generator A generates 0.3MWh annually; Generator B generates 0.4MWh annually; Generator C generates 0.5MWh annually; and Generator D generates 0.6MWh annually. Under existing rules generators can only claim ROCs for generation of 0.5MWh and over which for the purposes of issuing ROCs is rounded up to

1MWh. Anything below 0.5MWh is rounded down. This means that Generators C and D will receive 1 ROC each. Generators A and B do not meet the 0.5MWh threshold and so will not be able to claim any ROCs.

3.9 Scenario 2 – using proposed rules: As before Generator A generates 0.3MWh annually; Generator B generates 0.4MWh annually; Generator C generates 0.5MWh annually; and Generator D generates 0.6MWh annually. All four generators decide to use the same agent who will be required to amalgamate their output. The amalgamated output equals 1.8MWh which when rounded up will result in 2 ROCs being issued. This means that where before only 2 generators were able to benefit from the RO now all 4 generators will have access. Whilst Generators C and D are no longer benefiting from the rounding rules to such an extent they may feel the administrative advantages of using an agent outweigh this loss.

3.10 Scenario 3 – using proposed rules: As before Generator A generates 0.3MWh annually; Generator B generates 0.4MWh annually; Generator C generates 0.5MWh annually; and Generator D generates 0.6MWh annually. Generators A and B decided to use the same agent who will be required to amalgamate their output. The amalgamated output equals 0.7MWh which when rounded up will result in 1 ROC being issued. Generators C and D act independently of an agent and so receive 1 ROC each as in Scenario 1. Generators C and D will be able to receive the same benefits as they do under existing rules whilst Generators A and B will also be able to claim a ROC and so benefit from the RO which they are not able to do under the existing rules due to the 0.5MWh threshold for claiming ROCs.

What are the costs?

3.11 These changes will operate in parallel with existing rules. There will be no compulsion to use an agent so although for generators using an agent there may be transaction costs those generators not wishing to use an agent will be able to continue as they do under current rules. Moreover, trade associations and smaller generators consider that the proposals have the potential to reduce costs and administrative burdens for smaller generators and increase access to the financial benefits of the RO. In the short term there will be an increased administrative cost to Ofgem while they put in place new systems to accommodate these changes.

What are the alternative options?

3.12 **Do nothing.** This would go against previous Government announcements to take forward this policy. In addition, the benefits in terms of reduced administrative burdens for small generators will not be achieved with this option.

Removal Of Sale And Buyback Agreements

What is the proposal?

3.13 That the necessity for generators to have a sale and buyback agreement to enable the electricity which they generate and consume to be eligible for ROCs is removed.

Why is it being proposed and what are the benefits?

3.14 In 2005, as part of the RO Review, the Government held two consultations – a preliminary consultation and a statutory consultation. As part of these consultations, the Government included a proposal to remove the necessity to enter into sale and buyback agreements for

small generators who consume the electricity which they generate and also asked whether it would be appropriate to extend this proposal to all generators. The proposal to remove sale and buyback for small generators was strongly supported, with more mixed support for its removal for all generators.

3.15 Although many of the proposals in the RO Review were implemented from 1 April 2006 in the Renewables Obligation Order 2006, it was not possible to do this for the removal of sale and buyback agreements, as this required primary legislation. The Government has now secured the primary legislation needed through the Climate Change and Sustainable Energy Act 2006 and intends to implement this proposal in the secondary legislation from 1 April 2007.

3.16 During previous consultations on this issue, it has been argued that it is not just small generators who experience administrative burdens and difficulty in obtaining sale and buyback contracts with suppliers, but that it is a problem that extends to larger generators as well. We are keen to encourage deregulatory measures within the RO where possible, and view sale and buyback agreements as an unnecessary administrative burden.

What are the costs?

3.17 The purpose of sale and buyback agreements is to allow generators to claim ROCs for electricity they consume themselves. The primary legislation has been amended so that generators, who have generated their own electricity will, when claiming ROCs, no longer have to demonstrate supply by entering into sale and buyback agreements. ROCs will be able to be issued if the electricity generated has been consumed by the generating station. The removal of a requirement for sale and buyback agreements means that electricity generated and sold and purchased back in this way will no longer form part of any supplier's obligation so in effect making the size of the obligation smaller whilst the number of ROCs in the market is likely to stay about the same or increase. Analysis suggests that this could have a very small impact on ROC prices. However, the amounts of generation currently included under sale and buyback agreements, termed 'non-billed supply', is very small (see para 3.18) and so the impact on ROC prices is likely to be minimal and will remain so unless growth in generation for self consumption is significantly greater than the overall increase in the level of the RO.

3.18 The table below sets out data on electricity generation covered by sale and buyback agreements, termed 'non-billed supply', in absolute and relative terms. This is taken from the information suppliers submitted to Ofgem for compliance purposes. Non-billed supply also includes supply made through an exempt distribution network (i.e. non-article 10 supply, representing supply made to customers independent from the operator of the generating station but through a licence exempt network).

		Total non-billed electricity sales (MWh)	**Proportion of total electricity sales**
2003/04	Eng & Wales	1,768,470	0.61%
2003/04	Scotland	23,823	0.08%
2004/05	Eng & Wales	618,663	0.21%
2004/05	Scotland	12,760	0.04%
2005/06	Eng & Wales	711,073	0.24%
2005/06	Scotland	43,657	0.15%
2005/06	Northern Ireland	18,278	0.22%

What are the alternative options?

3.19 **Do nothing.** This would go against previous Government announcements to take forward this proposal. In addition the deregulatory benefits would not be gained.

Co-Firing Interim Changes

What is the proposal?

3.20 To allow co-firing of energy crops outside the current cap on co-firing in the Obligation and to make a minor amendment to the definition of an energy crop.

Why is it being proposed and what are the benefits?

3.21 The Government's proposed long-term approach to co-firing is to allow unlimited co-firing within a banded RO but at a reduced support level.

3.22 This approach is contingent on the introduction of a banded Obligation. However, allowing co-firing of energy crops outside the cap in the interim would allow co-firers to progress contracts with energy crop planters without concerns about restrictions on co-firing arising from the cap. The Government believes that the impact of this change on other renewables should be small, as there are unlikely to be significant volumes of energy crop co-firing in the interim period prior to the introduction of banding, and there should be no impact on other biomass-using industries.

3.23 As energy crop co-firing will be allowed outside the caps, we propose to remove the minimum requirements on energy crop co-firing that currently apply from 2009 onwards. The Government believes this is a lighter touch regulatory approach, incentivising companies to use energy crops but not requiring them to do so.

What are the costs?

3.24 The Government does not consider there are any significant costs associated with this proposal. It is not our expectation that the co-firing of energy crops outside the co-firing cap should have a significant impact on ROC prices in the interim period. Current levels of planting and contracting for energy crops suggest that any impacts will be very limited. Nonetheless, we will monitor this, and if evidence were to emerge that energy crop co-firing was impacting negatively on the wider market then we would consult further on the case for any additional actions to reduce this impact.

What are the alternative options?

3.25 **Raise the cap on co-firing.** This would allow a greater amount of co-firing and could potentially benefit the energy crop market. However, the amount of co-firing permitted under the RO already stands to increase by around 40% by 2009/10, because of the rising level of the Obligation, and changing the cap could have some negative effects. These could be:

- A significant loss of investor confidence and financial damage to other renewable projects and technologies.

- A significant increase in support for the cheapest technology in the RO, in direct contrast to the Government's policy of reducing any over-subsidisation over time.

- Potential damage to other biomass-using industries.

3.26 **Do nothing.** This would reduce the incentives on co-firers to progress contracts with energy crop planters prior to the introduction of banding.

Fuel to be Treated as Biomass

What is the proposal?

3.27 Where more than one fuel that are not fossil fuels (as defined in Article 8 of the RO Order) are used in a power station, as long as over 90% of the total energy content of those fuels is derived from biomass then those fuels will be treated as biomass fuels for the purpose of establishing ROC eligibility.

Why is it being proposed and what are the benefits?

3.28 Under existing rules, if a power station burns two fuels for example, one where 94% of the energy content derives from biomass and the other where 88% of the energy content derives from biomass the station is unlikely to be eligible for ROCs (except, for example, where the generating station was a qualifying combined heat and power generating station as defined in the ROO). Under the proposed amendment, allowing the total energy content of both fuels to be considered, ROCs could be claimed based on the total energy content of the two fuels as long as over 90% of the total energy content of those fuels is derived from biomass. This approach will allow burning of a wider range of biomass fuels by these generators, that for example might have otherwise gone to landfill.

What are the costs?

3.29 There are no additional costs to Government or industry associated with this change. Companies affected by the change would benefit financially as they would be able to claim more ROCs than is the case under the current legislation.

What are the alternative options?

3.30 **Do nothing.** Power stations could continue to have single fuel streams measured for ROC eligibility purposes, however, this approach discourages generators from using more diverse biomass fuel streams and therefore does not maximise electricity generation from biomass fuel.

4. Business Sectors Affected By The Renewables Obligation Including Small Business

General

4.1 The main business sectors affected by the Renewables Obligation are companies involved in the generation of renewable electricity and companies involved in the supply of electricity to all electricity consumers. As of January 2007 there are 1094 generators eligible under the RO and of these 195 are small generators of 50KW and under. In 2005/06 there were 35 licensed suppliers with a renewables obligation. Users of biomass materials for non-energy generation purposes may be affected through increased competition for these materials.

4.2 The proposed changes will ease the administrative burden on companies who benefit from or must comply with the Renewables Obligation.

Small Business

4.3 The major regulatory impact on the large majority of small businesses arising from the Renewables Obligation comes from the increased costs of electricity that affect all electricity consumers. These changes are of a limited and technical nature and should not give rise to further increases in electricity costs, for small businesses or any other consumers of electricity.

4.4 A much smaller subset of small businesses active in the generation of renewable energy and/or the supply of electricity to customers in the UK and producers of energy crops are likely to be more affected by the changes to the RO. Prior to the publication of the consultation the DTI has held meetings with many relevant stakeholders, companies and trade associations in the renewable energy sector.

4.5 The range of administrative simplifications have also been welcomed by smaller generators of renewable electricity – which in many cases will also be small businesses. Allowing agents to act on behalf of small generators and to amalgamate generation will achieve economies of scale in the administrative processes involved as well as allowing small generators who may not have previously felt it worth their while to participate in the RO to now benefit. The removal of sale and buyback agreements and changes to the definition of an energy crop removes a further administrative complication and, again, allows easier access to the benefits of the RO.

4.6 Removing energy crops from the co-firing cap should further stimulate the market for the small businesses that supply these crops, as there will be no restrictions on the amount of ROCs produced from this source. ROCs from co-firing have recently been traded at prices below regular ROCs (Non Fossil Purchasing Agency ROC Auction 24 October 2006), uncapping energy crops should therefore allow small business access to a higher price for the energy crops they supply relative to other co-fired materials.

5. Equity and Fairness

5.1 The Renewables Obligation is a market-based mechanism whose rules apply in a non-discriminatory way to its participants. The Government's intention is that this will remain the case with all the proposed changes.

6. Competition Assessment

6.1 The Renewables Obligation is a market-based instrument that operates in a competitive market for electricity. The rules of the RO apply in a non-discriminatory way to all participants in the renewables industry and electricity sector. The Government's intention is that this will remain the case with all the amendments in the 2007 Order. However, we do propose that where a small generator is using an agent they can generally only change that agent at the start of an obligation period. If their agent is also an electricity supplier then this may introduce an additional layer of complexity if a generator wishes to switch electricity supplier. However, this restriction needs to be balanced against the administrative burden which would be placed on Ofgem, the generator concerned and the agents, if generators were able to switch agents as often as they wished to. Removing energy crops from the co-firing cap and proposals to band technologies within the RO to

provide differentiated levels of support, should serve to increase the energy crop market in the long-term relative to other biomass sources such as those used in other industries.

7. Enforcement And Sanctions, Compliance & Monitoring

7.1 The Renewables Obligation Orders are administered and enforced by Ofgem. Non-compliance with the Obligation is considered as a breach of a 'relevant requirement' of a supplier's licence and Ofgem may impose appropriate sanctions. Ofgem reports annually on its administration of the Obligation and conducts regular technical audits of generators as part of its fraud prevention strategy. The DTI is responsible for monitoring the impact of the Obligation on the development of renewable energy and collects detailed information on growth in renewable energy generation and projects under development.

7.2 There are no changes to the RO that will increase the burdens on business through imposition of additional enforcement or inspection measures. Nor are there any new powers of sanction proposed. A number of proposals are being brought forward to ease the process of benefiting from or complying with the Renewables Obligation for users of energy crops and small generators.

8. Consultation

8.1 The changes affecting small generators and proposing the removal of sale and buyback agreements for all generators have already been the subject of two consultations as part of the RO Review which were carried out in 2005. Although there was support for these changes, they required new primary legislation through the Climate Change and Sustainable Energy Act 2006 to enable the secondary legislation to be changed. The Government has now secured the necessary legislation and a further statutory consultation took place between October and December 2006 on the implementation of these proposals.

9. Post-Implementation Review

9.1 The Government will continue to monitor the performance of the Renewables Obligation and liaise closely with Ofgem on issues relating to the administration of the Obligation and compliance with it.

10. Summary And Conclusion

10.1 The changes contained in the 2007 Order represent relatively limited amendments to the Renewables Obligation and are deregulatory in their content.

10.2 The major regulatory impact of the Renewables Obligation arises from the increased costs it imposes on electricity consumers – in return for stimulation of the development of renewable energy sources for power generation. The Government considers that these relatively limited changes will have benefits in terms of increasing renewable generation from co-firing and simplify some of the administrative processes relating to the Obligation. The 2007 Order does not contain any increases in Obligation levels or any

changes to the buy-out price, and there are no other changes proposed for the 2007 Order that will, or have the potential to, create additional costs for electricity consumers.

12. Ministerial Declaration

"I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs."

Date: *6th February 2007*

Signed : *Lord Truscott*

Parliamentary Under Secretary of State for Energy

13. Contact Point

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TRANSPOSITION NOTE

THE RENEWABLES OBLIGATION ORDER 2002 ("The Order")

1. This transposition note addresses the elements of European Directive (2001/77/EC) (OJL 283/33) on the promotion of electricity produced from renewable energy sources in the internal electricity market transposed by the Order.

2. The purpose of the Directive is:

'to promote an increase in the contribution of renewable energy sources to electricity production in the internal market for electricity and to create a basis for a future Community framework thereof.'

The main elements of the Directive, in doing so, set out national indicative targets for renewable energy consumption and requires Member States to address administrative and grid system issues to facilitate the achievement of those targets. It also requires Member States to ensure that the origin of electricity generated from renewable sources can be guaranteed as such through a system of certification.

3. The Order places an obligation on electricity suppliers to sources a certain proportion of their total sales from eligible renewable sources. As such, it is one of a number of measures being undertaken by the UK Government to comply with the purpose and objective of the Directive.

4. The Order specifically addresses Article 3(1) of the Directive:

'*Member States shall take appropriate steps to encourage greater consumption of electricity produced from renewable energy sources in conformity with the national indicative targets referred to in paragraph 2. These steps must be in proportion to the objective to be attained'*

5. Further legislation will be brought forward in due course to transpose other specific provisions within the Directive.