Draft Order laid before the Scottish Parliament under section 32L(3) of the Electricity Act 1989, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2009 No.

ELECTRICITY

The Renewables Obligation (Scotland) Order 2009

Made - - - - 2009

Coming into force in accordance with Article 1

CONTENTS

PART 1
Introductory provisions

1. Citation and commencement
2. Interpretation
3. Waste as a renewable source
4. Biomass and fuels which are to be treated as biomass

PART 2
The renewables obligation

5. The renewables obligation
6. Calculation A
7. Part of calculation A referable to Great Britain
8. Part of calculation A referable to Northern Ireland
9. Calculation B
10. Calculation C
11. Determining the total number of renewables obligation certificates to be produced in an obligation period
12. Determining the number of renewables obligation certificates to be produced by a designated electricity supplier in order to discharge its renewables obligation
13. Further provision in relation to the production of renewables obligation certificates

PART 3
Matters to be certified by and content of SROCs

14. Matters to be certified by SROCs
15. When electricity is to be regarded as supplied to customers in Great Britain or Northern Ireland

16. When electricity is used in a permitted way for SROCs certifying matters within section 32B(7) or (8) of the Act

PART 4

Cases and circumstances when a SROC must not be issued

17. Excluded generating stations
18. Generating stations first commissioned before 1st January 1990
19. Generating stations generating under arrangements referred to in the Electricity (Northern Ireland) Order 1992
20. Generating stations in respect of which a NFFO arrangement applied but was terminated
21. Non-commissioned generating stations in respect of which a NFFO arrangement applies
22. Circumstances in which no SROCs are to be issued in respect of electricity generated from renewable sources
23. Circumstances in which no SROCs are to be issued by virtue of section 32C(8)(a) of the Act

PART 5

SROCs to be issued by Authority in respect of renewable output

24. SROCs to be issued by Authority in respect of a generating station's renewable output
25. Calculating a generating station's renewable output
26. Renewable output of a qualifying combined heat and power generating station

PART 6

Banding and grandfathering

27. The amount of electricity to be stated in each SROC
28. Qualifying combined heat and power generating stations
29. Microgenerators
30. Generating stations which were accredited as at 11th July 2006
31. Generating stations which were accredited, or held preliminary accreditation, as at 31st March 2009
32. Generating stations in respect of which a statutory grant has been awarded
33. Review of banding provisions

PART 7

Issue and revocation of SROCs

34. Issue of SROCs to generators and suppliers
35. Issue of SROCs to agents
36. General criteria for the issue of SROCs
37. Criteria applicable to SROCs where article 36(1)(a) or (b) cannot be complied with
38. Further criterion applicable to SROCs certifying matters within section 32B(3) and (5) of the Act where electricity generated otherwise than on land
39. Further criteria applicable to SROCs certifying matters within section 32B(3) to (6) of the Act
40. Further criteria applicable to SROCs certifying matters within section 32B(5), (6) and (8) of the Act
41. Refusing to issue and revoking SROCs

PART 8
Payments to discharge the renewables obligation, dealing with the buy-out and late payment funds, and mutualisation

42. Interpretation
43. Payments to discharge the renewables obligation
44. Late payments to discharge the renewables obligation
45. Dealing with the buy-out fund: payments into the Consolidated Fund and to the Northern Ireland authority
46. Dealing with the late payment fund: payments into the Consolidated Fund and to the Northern Ireland authority
47. Dealing with the buy-out and late payment funds: payments to United Kingdom suppliers
48. Shortfall in the buy-out and late payment funds: the total mutualisation sum
49. Payments to be made by suppliers towards the total mutualisation sum
50. Circumstances in which payments towards the total mutualisation sum are to be re-calculated
51. Re-calculated payments to be made by suppliers towards the total mutualisation sum and repayments by the Authority
52. Payments to be made to suppliers out of the mutualisation fund

PART 9
Provision of information, functions of the Authority and modification of this Order in relation to microgenerators in certain circumstances

53. Provision of information to the Authority
54. Information to be provided to the Authority where electricity is generated from biomass
55. Provision of information to the Secretary of State
56. Exchange of information with the Northern Ireland authority
57. Functions of the Authority
58. Preliminary accreditation and accreditation of generating stations
59. SROC Register
60. Modification of this Order in relation to microgenerators in certain circumstances
61. Revocation, transitional and savings

SCHEDULE 1 — CALCULATION OF THE SROC OBLIGATION
SCHEDULE 2 — ELECTRICITY TO BE STATED IN SROCs
PART 1 — INTERPRETATION
PART 2 — AMOUNT OF ELECTRICITY TO BE STATED IN SROCs GENERALLY
PART 3 — AMOUNT OF ELECTRICITY TO BE STATED IN RENEWABLES OBLIGATION CERTIFICATES WHERE ARTICLE 30(3) APPLIES
PART 4 — AMOUNT OF ELECTRICITY TO BE STATED IN RENEWABLES OBLIGATION CERTIFICATES WHERE ARTICLE 30(5) OR ARTICLE 31(4) APPLIES
SCHEDULE 3 — AMOUNT OF RELEVANT SHORTFALL FOR THE RELEVANT OBLIGATION PERIOD
SCHEDULE 4 — THE REGISTER

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 32 to 32M of the Electricity Act 1989(**a**) and all other powers enabling them to do so.

In accordance with section 32L(3) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

In accordance with section 32D(4) of that Act the Scottish Ministers have had regard to the matters referred to in that section.

In accordance with section 32L(1) of that Act they have consulted the Gas and Electricity Markets Authority, the Gas and Electricity Consumer Council, electricity suppliers to whom this Order applies, and such generators of electricity from renewable sources and other persons as they considered appropriate.

PART 1

Introductory provisions

Citation and commencement

1. This Order may be cited as the Renewables Obligation (Scotland) Order 2009 and comes into force on the day after the day on which it is made.

Interpretation

2.—(1) In this Order–

"the Act" means the Electricity Act 1989;

"the 2007 Order" means the Renewables Obligation (Scotland) Order 2007(**b**);

"accreditation" in relation to a generating station, means accreditation of the station as one which is capable of generating electricity from renewable sources by the Authority or the Northern Ireland authority (and includes accreditation granted before 1st April 2009) and "accredited" should be construed accordingly;

"anaerobic digestion" means the bacterial fermentation of organic material in the absence of free oxygen;

"biomass" is to be construed in accordance with article 4;

"CEN/TS 15359:2006" means the document identified by Standard Number DD CEN/TS 15359 and entitled "Solid recovered fuels. Specifications and classes." published by the European Committee for Standardisation on 30th June 2006(**c**);

"CEN/TS 15402:2006" means the document identified by Standard Number DD CEN/TS 15402 and entitled "Solid recovered fuels. Methods for the determination of the content of volatile matter." published by the European Committee for Standardisation on 30th November 2006(**d**);

"CEN/TS 15415:2006" means the document identified by Standard Number DD CEN/TS 15415 and entitled "Solid recovered fuels. Determination of particle size and particle size distribution by screen method." published by the European Committee for Standardisation on 30th November 2006(**e**);

(**a**) 1989 c.29, as substituted by section 37 of the Energy Act 2008 (c.32).
(**b**) S.S.I. 2007/267, as amended by S.S.I. 2008/132.
(**c**) ISBN 0580 485350. Copies can be obtained from the British Standards Institution at www.bsi-global.com/en/.
(**d**) ISBN 0580 49548 5. Copies can be obtained from the British Standards Institution at www.bsi-global.com/en/.
(**e**) ISBN 0580 49554X. Copies can be obtained from the British Standards Institution at www.bsi-global.com/en/.

"CEN/TS 15590:2007" means the document identified by Standard Number DD CEN/TS 15590 and entitled "Solid recovered fuels. Determination of potential rate of microbial self heating using the real dynamic respiration index." published by the European Committee for Standardisation on 29th June 2007(**a**);

"CHPQA" means the Combined Heat and Power Quality Assurance Standard, Issue 3, January 2009, as published by the Department for Environment, Food and Rural Affairs, and Guidance Note 44 (Use of CHPQA (expected to apply from April 2009) to obtain Renewables Obligation Certificates (ROCs) Including Under a Banded Obligation), published by the Department of Energy and Climate Change in November 2008(**b**);

"civil works", in relation to a hydro generating station, are to be regarded as all man-made structures, and man-made works for holding water which are located on the inlet side of a turbine (turbine A), excluding any such structures or works which supply another turbine before water is supplied to the structures and works which supply turbine A;

"combined heat and power generating station" means a station which generates electricity and is (or may be) operated for purposes including the supply to any premises of–

(a) heat produced in association with electricity; or

(b) steam produced from, or air or water heated by, such heat;

"commissioned", in relation to a generating station, means the completion of such procedures and tests in relation to that station as constitute, at the time they are undertaken, the usual industry standards and practices for commissioning that type of station in order to demonstrate that that station is capable of commercial operation;

"connected person", in relation to the owner or operator of a generating station, or any party to a NFFO arrangement, means any person connected to the owner, operator or party within the meaning of section 839 of the Income and Corporation Taxes Act 1988(**c**);

"declared net capacity" in relation to a generating station, means the maximum capacity at which the station could be operated for a sustained period without causing damage to it (assuming the source of power used by it to generate electricity was available to it without interruption) less the amount of electricity that is consumed by the plant;

"designated electricity supplier" is to be construed in accordance with article 5(1);

"electricity interconnector" means so much of an electric line or other electric plant as subsists wholly or primarily for the purposes of the conveyance of electricity between a transmission or distribution system in Great Britain and an equivalent system in another country (including Northern Ireland);

"energy content", in relation to any substance, means the energy contained within that substance (whether measured by a calorimeter or determined in some other way) expressed in terms of the substance's gross calorific value within the meaning of British Standard BS 7420:1991 (Guide for determination of calorific values of solid, liquid and gaseous fuels (including definitions) published by the British Standards Institution on 28th June 1991(**d**));

"energy crop" means a plant crop planted after 31st December 1989 which is grown primarily for the purpose of being used as fuel or which is one of the following–

(a) miscanthus giganteus (a perennial grass);

(b) salix (also known as short rotation coppice willow); or

(c) populus (also known as short rotation coppice poplar);

(**a**) ISBN 978 0 580 57654 6. Copies can be obtained from the British Standards Institution at www.bsi-global.com/en/.

(**b**) Product code for the Standard [00EP0798]. Copies of Standard and Guidance Note 44 can be obtained from www.chpqa.com.

(**c**) 1988 c.1. Section 839 was amended by section 74 of, and Schedule 17, paragraph 20 to, the Finance Act 1995 (c.4), sections 89 and 178 of, and Schedule 13, Part 2, paragraphs 7, 25 and 27(1) and Schedule 26, Part 3 to, the Finance Act 2006 (c.25), section 1027 of and Schedule 1, Part 1, paragraphs 1 and 223 to, the Income Tax Act 2007 (c.3), and regulations 47 and 100 of S.I. 2005/3229.

(**d**) ISBN 0580194825. Copies can be obtained from the British Standards Institution: www.bsi-global.com/en/.

"gasification" means the substoichiometric oxidation or steam reformation of a substance to produce a gaseous mixture containing two or all of the following: oxides of carbon, methane and hydrogen;

"hazardous waste" means any waste which is hazardous waste as defined by Article 1(4) of the Hazardous Waste Directive;

"Hazardous Waste Directive" means Council Directive 91/689/EEC on hazardous waste(**a**), as amended by Council Directive 94/31/EC(**b**);

"hydro generating station" means a generating station driven by water (other than a generating station driven by tidal flows, waves, ocean currents or geothermal sources) and includes all turbines supplied with water by or from the same civil works, except any turbine driven by a compensation flow supplied by or from those civil works in a natural water course where there is a statutory obligation to maintain that compensation flow in that water course (in which case that turbine and associated infrastructure is to be regarded as a separate hydro generating station);

"landfill" has the meaning given in Article 2(g) of Council Directive 1999/31/EC(**c**);

"landfill gas" means gas formed by the digestion of material in a landfill;

"large hydro generating station" means a hydro generating station which has, or has had at any time since 1st April 2002, a declared net capacity of more than 20 megawatts;

"linked person" in relation to a person who is a party to a NFFO arrangement ("the first person") means another person who has given or who has arranged to give to the first person or has ensured or arranged to ensure that the first person is given a financial or other inducement relating to any right or interest in, or in respect of, the construction or operation of a generating station at the location;

"microgenerator" means a generating station which has a declared net capacity of 50 kilowatts or less;

"micro hydro generating station" means a hydro generating station which–

(a) has a declared net capacity of 1.25 megawatts or less;

(b) has always been in private ownership and operation; and

(c) has never generated electricity under an arrangement which has been a qualifying arrangement as defined in section 33 of the Act (as that section was originally enacted);

"NFFO arrangement" means an arrangement which was originally made pursuant to a Non-Fossil Fuel Order (and includes any replacement of such an arrangement where that replacement was made pursuant to an order made under section 67 of the Utilities Act 2000(**d**));

"NIRO Order" means any order made under Article 52 to 55F of the Northern Ireland Energy Order;

"nominated person" has the same meaning as it has in the Electricity from Non-Fossil Fuel Sources Saving Arrangements Order 2000(**e**) or in the Electricity from Non-Fossil Fuels Sources (Scotland) Saving Arrangements Order 2005(**f**) (as the case may be);

"Non-Fossil Fuel Order" means any of the following Orders: the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1994(**g**); the Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1994(**h**); the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1997(**i**); the Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1997(**j**); the

---

(**a**) O.J. No. L 377, 31.12.1991, p.20.
(**b**) O.J. No. L 168, 2.7.1994, p.28.
(**c**) O.J. No. L 182, 16.7.1999, p.1.
(**d**) 2000 c.27; section 67(1)(c) was amended by the Energy Act 2008 (c.32), section 39.
(**e**) S.I. 2000/2727.
(**f**) S.S.I. 2005/549.
(**g**) S.I. 1994/3259.
(**h**) S.I. 1994/3275 (S. 190).
(**i**) S.I. 1997/248.
(**j**) S.I. 1997/799 (S. 76).

Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1998(**a**); and the Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1999(**b**);

"Northern Ireland certificate" means a renewables obligation certificate issued by the Northern Ireland authority under the Northern Ireland Energy Order and pursuant to a NIRO Order;

"Northern Ireland Energy Order" means the Energy (Northern Ireland) Order 2003(**c**);

"obligation period" means any of the periods referred to in the first column of Schedule 1;

"offshore waters" means–

(a) waters in or adjacent to the United Kingdom which are between the mean low water mark and the seaward limits of the territorial sea; and

(b) waters within an area designated under section 1(7) of the Continental Shelf Act 1964(**d**);

"on land", in relation to the location of a generating station, means wholly or partly on land above mean high water level;

"permitted ancillary purposes" is to be construed in accordance with article 22(3) (fossil fuel or waste used for permitted ancillary purposes);

"plant", with reference to crops or plant matter, includes shrubs and trees;

"preliminary accreditation" in relation to a generating station, means accreditation of the station as one which (when commissioned) will be capable of generating electricity from renewable sources by the Authority or the Northern Ireland authority (and includes a preliminary accreditation granted before 1st April 2009);

"pyrolysis" means the thermal degradation of a substance in the absence of any oxidising agent (other than that which forms part of the substance itself) to produce char and one or both of gas and liquid;

"qualifying combined heat and power generating station" means a combined heat and power generating station which has been accredited under the CHPQA;

"qualifying power output", in relation to a qualifying combined heat and power generating station, has the meaning given to it in the CHPQA;

"Register" has the meaning given to it in article 59(1);

"registered holder" has the meaning given to it in paragraph 3(a) of Schedule 4;

"regular biomass" means biomass other than–

(a) sewage gas;

(b) landfill gas;

(c) energy crops; or

(d) fuel produced by means of anaerobic digestion, gasification or pyrolysis;

"relevant material" is to be construed in accordance with article 4(1)(a);

"Renewable Energy Zone" has the same meaning as in section 84 of the Energy Act 2004(**e**);

"renewables obligation" has the meaning given to it in article 5;

"renewables obligation certificate" means–

(a) a renewables obligation certificate issued by the Authority under a renewables obligation order made by the Scottish Ministers;

(b) a renewables obligation certificate issued by the Authority under a renewables obligation order made by the Secretary of State; or

(c) a Northern Ireland certificate;

(**a**) S.I. 1998/2353.
(**b**) S.I. 1999/439 (S. 24).
(**c**) S.I. 2003/419 (N.I. 6) Articles 52 to 55F were substituted by the Energy (Amendment) Order (Northern Ireland) 2009 (S.R. (N.I) 2009 No. 35).
(**d**) 1964 c.29.
(**e**) 2004 c.20.

"renewable output" is to be construed in accordance with articles 25 and 26;

"Respiratory Index" means the rate of oxygen uptake expressed in milligrams of oxygen per kilogram of volatile solids per hour;

"retail prices index" means–

(a) the general index of retail prices (for all items) published by the Office of National Statistics; or

(b) where the index is not published for a year, any substituted index or figures published by that Office;

"Solid Recovered Fuel" means solid fuel which–

(a) complies with the classification and specification requirements in CEN/TS 15359:2006;

(b) is prepared from a waste which is not a hazardous waste;

(c) has a maximum Respiratory Index value of no more than 1500 milligrams of oxygen per kilogram of volatile solids per hour when measured using the real dynamic respiration test specified in CEN/TS 15590:2007; and

(d) when subject to a methodology for the determination of particle size in accordance with CEN/TS 15415:2006 is able to pass through an opening measuring no more than 150 millimetres in all dimensions;

"SROC" means a renewables obligation certificate issued by the Authority under a renewables obligation order made by the Scottish Ministers;

"SROC identifier" has the meaning given by paragraph 3(b) of Schedule 4;

"sewage gas" means gas formed by the anaerobic digestion of sewage (including sewage which has been treated or processed);

"specified day", in relation to an obligation period, means the 1st September immediately following it;

"total installed capacity" in relation to a generating station, means the maximum capacity at which the station could be operated for a sustained period without causing damage to it (assuming the source of power used by it to generate electricity was available to it without interruption);

"total power output", in relation to a qualifying combined heat and power generating station, has the meaning given to it in the CHPQA;

"transmission or distribution system" means a transmission or distribution system within the meaning of Part 1 of the Act(**a**) or an equivalent system in Northern Ireland;

"volatile solids" means any mass loss, corrected for moisture, when a solid is heated out of contact with air under the specified conditions and using the methods in CEN/TS 15402:2006; and

"waste" has the meaning given to it in section 75(2) of the Environmental Protection Act 1990(**b**) but does not include gas derived from landfill sites or gas produced from the treatment of sewage.

(2) Where–

(a) waste or biomass is used in a generating station (whether alone or together or in combination with another fuel);

(b) a proportion of that waste or biomass is, or is derived from, fossil fuel; and

(c) in any month during which that waste or biomass is used that proportion varies,

references in this Order to the energy content of that waste or biomass and fossil fuel are references to the overall energy content of that waste or biomass and fossil fuel used to fuel the generating station during that month.

(**a**) See section 4(4) . The definition of "distribute" contains the definition of "distribution system" and was inserted by the Utilities Act 2007 (c.27), section 28(1) and (3)(a). The definition of "transmission system" was substituted by the Energy Act 2004 (c.20) section 135(1) and (4).

(**b**) 1990 c.43, as amended by section 120(1) of and paragraph 88(1) and (2) of Schedule 22 to the Environment Act 1995 (c.25).

(3) Where two or more of the fuels listed in paragraph (4) are mixed together to form one substance which is then used in a generating station to generate electricity, the provisions of this Order apply in relation to the electricity so generated in the same way as they would apply if the electricity had been generated using those fuels without mixing them together.

(4) The fuels referred to in paragraph (3) are biomass, waste (not being biomass) which constitutes a renewable source and fossil fuel (including waste which does not constitute a renewable source).

(5) Any reference in this Order to the provision of information "in writing" includes the provision of such information by electronic mail, facsimile or similar means which are capable of producing a document containing the text of any communication.

(6) Any reference in this Order to the supply of electricity made to customers in Northern Ireland is to be construed in accordance with the definition of "supply" in Article 3 of the Electricity (Northern Ireland) Order 1992(**a**).

(7) Any reference in this Order to a numbered Schedule is a reference to the Schedule bearing that number in this Order.

Waste as a renewable source

3.—(1) For the purposes of sections 32 to 32M of the Act and this Order, the term "renewable sources" includes waste of which not more than 90 per cent is waste which is, or is derived from, fossil fuel.

(2) The proportion of waste which is, or is derived from, fossil fuel–

(a) is to be determined by the Authority, and

(b) is the energy content of the fossil fuel from which the waste is in part composed or derived expressed as a percentage of the energy content of the waste as a whole.

(3) Where waste is used (whether on its own or not) to fuel a generating station, it is for the operator of the generating station to demonstrate to the Authority's satisfaction what proportion of the waste is, or is derived from, fossil fuel.

(4) Without prejudice to paragraph (3), when determining that proportion the Authority is entitled to have regard to any material (whether or not produced to it by the operator of the generating station) if, in its opinion, that material may indicate what proportion of the waste is, or is derived from, fossil fuel.

(5) Where the operator of a generating station in which municipal waste is used satisfies the Authority–

(a) by reference to data published by an allocating authority, a waste disposal authority or a waste collection authority, that the proportion of the municipal waste so used which is, or is derived from, fossil fuel, is unlikely to exceed 50 per cent; and

(b) that the municipal waste so used has not been subject to any process before being so used that is likely to have materially increased that proportion,

that constitutes sufficient evidence of the fact that the proportion of the municipal waste so used which is, or is derived from, fossil fuel is 50 per cent.

(6) Where–

(a) municipal waste is used in a generating station and–

(i) the Authority is not satisfied as to the matters identified in paragraph (5); or

(ii) the operator of the station claims that the proportion of that waste which is, or is derived from, fossil fuel is less than 50 per cent; or

(b) waste (not being municipal waste) is used in a generating station and the Authority is not satisfied as to what proportion of the waste is, or is derived from, fossil fuel,

(**a**) S.I. 1992/231 (N.I. 1).

the Authority may require the operator of the generating station to arrange for samples of any fuel used (or to be used) in the station, or of any gas or other substance produced as a result of the use of such fuel, to be taken by a person, and analysed in a manner approved by the Authority, and for the results of that analysis to be made available to the Authority.

(7) In this article–

"allocating authority", "municipal waste" and "waste disposal authority" have the same meaning as in Chapter 1 of Part 1 of the Waste and Emissions Trading Act 2003(**a**); and

"waste collection authority" has the same meaning as in Part 2 of the Environmental Protection Act 1990.

Biomass and fuels which are to be treated as biomass

4.—(1) In this Order, "biomass" means fuel used in a generating station where–

(a) at least 90 per cent of its energy content is derived from material which is, or is derived directly or indirectly from, plant matter, animal matter, fungi or algae ("relevant material"); and

(b) if fossil fuel forms part of it–

(i) the fossil fuel is present following a process–

(aa) to which the relevant material has been subject; and

(bb) the undertaking of which has caused the fossil fuel to be present in, on or with that material even though that was not the object of the process; or

(ii) the fossil fuel is waste and was not added to it with a view to its being used as a fuel.

(2) For the purposes of this Order except for article 54 (information to be provided to the Authority where electricity is generated from biomass), a fuel which is used in a generating station with biomass but which is not biomass (including, where two or more of the fuels listed in article 2(4) are mixed together before being so used, each of those fuels which is not biomass) is to be treated as biomass if–

(a) the energy content of the fuel is derived in part from relevant material and in part from fossil fuel;

(b) either–

(i) the fossil fuel is present in it following a process–

(aa) to which its relevant material has been subject; and

(bb) the undertaking of which has caused the fossil fuel to be present in, on or with that material even though that was not the object of the process; or

(ii) it is waste and the fossil fuel forming part of it was not added to it with a view to its being used as a fuel; and

(c) at least 90 per cent of the total energy content of the fuel and the biomass with which the fuel is used is derived from relevant material.

(3) Accordingly, any reference in this Order to biomass, other than in article 54, is to be construed as a reference to biomass or fuel which (by virtue of paragraph (2)) is to be treated as biomass.

(4) Where biomass (not being waste) is used, whether on its own or not, to fuel a generating station and a proportion of it is composed of fossil fuel, the proportion of it which is composed of fossil fuel–

(a) is to be determined by the Authority; and

(b) is the energy content of the fossil fuel from which it is in part composed expressed as a percentage of its energy content as a whole.

(**a**) 2003 c.33. See sections 21 and 24 of that Act.

(5) It is for the operator of the generating station to demonstrate to the Authority's satisfaction what proportion of the biomass is fossil fuel.

(6) When determining that proportion the Authority is entitled to have regard to any material (whether or not produced to it by the operator of the generating station) if, in its opinion, that material may indicate what proportion of the biomass is fossil fuel.

(7) For the purposes of this article, fossil fuel is not to be regarded as being derived directly or indirectly from plant matter, animal matter, fungi or algae.

PART 2

The renewables obligation

The renewables obligation

5.—(1) The renewables obligation is imposed on each electricity supplier supplying electricity to customers in Scotland (a "designated electricity supplier").

(2) The renewables obligation is that, subject to articles 43 and 44, each designated electricity supplier must, by the specified day, produce to the Authority, in respect of each megawatt hour of electricity that it supplies to customers in Scotland during an obligation period–

(a) subject to sub-paragraph (b), the number of renewables obligation certificates determined in accordance with article 12;

(b) where the obligation period commences on 1st April 2009, 0.097 renewables obligation certificates for each megawatt hour so supplied.

(3) To enable the number referred to in paragraph (2)(a) to be determined, the Scottish Ministers must first determine for the obligation period in question, calculations A, B, and C and the total number of renewables obligation certificates required to be produced by designated electricity suppliers in accordance with articles 6 to 11.

(4) Where the number of renewables obligation certificates that a designated electricity supplier is required to produce by virtue of paragraph (2) is not a whole number, it is to be rounded to the nearest whole number (one half being rounded upwards).

(5) For the purposes of this Order, electricity generated by a generating station which cannot be shown to have been supplied to customers in Scotland, is to be regarded as having been so supplied if and to the extent that the condition in paragraph (6) has been met.

(6) The condition is met if–

(a) the generating station is located in Scotland;

(b) the electricity has been supplied to customers or premises in a Renewable Energy Zone, or any part of such a Zone, which is designated by Order under section 84(5) of the Energy Act 2004 (areas in relation to which Scottish Ministers have functions); and

(c) those customers or premises are connected to a transmission or distribution system (or part of such a system) located in Scotland.

Calculation A

6.—(1) Calculation A for the obligation period is the part of calculation A referable to Great Britain in article 7, added to the part of calculation A referable to Northern Ireland in article 8, rounded to the nearest whole number (one half being rounded upwards).

(2) References to calculation A are to be construed accordingly.

Part of calculation A referable to Great Britain

7. The part of calculation A referable to Great Britain is the estimate of megawatt hours of electricity likely to be supplied to customers in Great Britain during a particular obligation period,

as estimated by the Secretary of State under article 6(1) of the Renewables Obligation Order 2009(**a**) (Part of calculation A referable to Great Britain), multiplied by the figure which corresponds to that particular obligation period in the second column of Schedule 1.

Part of calculation A referable to Northern Ireland

8. The part of calculation A referable to Northern Ireland is the estimate of megawatt hours of electricity likely to be supplied to customers in Northern Ireland during a particular obligation period, as estimated by the Secretary of State under article 7(1) of the Renewables Obligation Order 2009 (Part of calculation A referable to Northern Ireland), multiplied by the figure which corresponds to that particular obligation period in the third column of Schedule 1.

Calculation B

9.—(1) Calculation B is the number of renewables obligation certificates likely to be issued in respect of renewable electricity for a particular obligation period, as estimated by the Secretary of State under article 9(2) of the Renewables Obligation Order 2009, increased by 8 per cent and rounded to the nearest whole number (one half being rounded upwards).

(2) References to calculation B are to be construed accordingly.

(3) In this article "renewable electricity" means electricity which is generated from renewable sources and in respect of which renewables obligation certificates may be issued.

Calculation C

10.—(1) The figure representing the sum of the estimates in articles 7 and 8, multiplied by 0.2 and rounded to the nearest whole number (one half being rounded upwards), is calculation C for that obligation period.

(2) References to calculation C are to be construed accordingly.

Determining the total number of renewables obligation certificates to be produced in an obligation period

11.—(1) Following the determination of calculations A and B for an obligation period and having calculated calculation C for that period in accordance with article 10, the Scottish Ministers are to determine the total number of renewables obligation certificates required to be produced by designated electricity suppliers ("the total obligation") for that period in accordance with paragraphs (2) to (5).

(2) Where calculation A is greater than or equal to calculation B for an obligation period, the total obligation for that period is calculation A.

(3) Subject to paragraph (4), where calculation B is greater than calculation A for an obligation period, the total obligation for that period is calculation B.

(4) Where calculation B is greater than both calculations A and C for an obligation period, the total obligation for that period is calculation C.

(5) References to the total obligation are to be construed accordingly.

Determining the number of renewables obligation certificates to be produced by a designated electricity supplier in order to discharge its renewables obligation

12.—(1) Where the total obligation for an obligation period is calculation A, the number of renewables obligation certificates that a designated electricity supplier is required to produce in order to discharge its renewables obligation in respect of electricity that it supplies to customers in Scotland during that period is, for each megawatt hour so supplied, the figure set out in the second column of Schedule 1 that corresponds to that period.

(**a**) S.I. 2009/ .

(2) Where the total obligation for an obligation period is calculation B, the number of renewables obligation certificates that a designated electricity supplier is required to produce in order to discharge its renewables obligation in respect of electricity that it supplies to customers in Scotland during that period is, for each megawatt hour so supplied, equal to–

$$\frac{\text{figure set out in second column of Schedule 1 for that period} \times \text{calculation B for that period}}{\text{calculation A for that period}}$$

(3) Where the total obligation for an obligation period is calculation C, the number of renewables obligation certificates that a designated electricity supplier is required to produce in order to discharge its renewables obligation in respect of electricity that it supplies to customers in Scotland during that period is, for each megawatt hour so supplied, 0.2 renewables obligation certificates.

(4) The Scottish Ministers must publish, by the 1st October preceding an obligation period, the number of renewables obligation certificates that a designated electricity supplier is required to produce in respect of each megawatt hour of electricity that it supplies to customers in Scotland during that period in order to discharge its renewables obligation for that period(**a**).

Further provision in relation to the production of renewables obligation certificates

13.—(1) A designated electricity supplier may discharge its renewables obligation by the production to the Authority of Northern Ireland certificates.

(2) A designated electricity supplier may discharge up to 25 per cent of its renewables obligation in respect of an obligation period by producing to the Authority renewables obligation certificates relating to electricity supplied in the immediately preceding obligation period.

(3) Subject to paragraphs (4) and (5), no more than 12.5 per cent of a designated electricity supplier's renewables obligation may be satisfied by the production of renewables obligation certificates issued in respect of electricity generated by a generating station in a month during which it generated electricity partly from fossil fuel and partly from biomass.

(4) Paragraph (3) does not apply to the 1st April 2009 to 31st March 2010 obligation period, where no more than 10 per cent of a designated electricity supplier's renewables obligation may be satisfied by the production of renewables obligation certificates issued in respect of electricity generated by a generating station in a month during which it generated electricity partly from fossil fuel and partly from biomass.

(5) In the case of a renewables obligation certificate issued in respect of electricity generated by a generating station in a month during which it generated electricity partly from fossil fuel and partly from biomass the limits set out in paragraph (3) or (4) do not apply to the production of those certificates if and to the extent that the electricity in respect of which they were issued was generated by–

(a) co-firing of biomass with CHP;

(b) co-firing of energy crops; or

(c) co-firing of energy crops with CHP.

(6) In determining how electricity has been generated for the purposes of paragraphs (3) to (5), no account is to be taken of any fossil fuel which the generating station uses for permitted ancillary purposes.

(7) A designated electricity supplier must not produce to the Authority a renewables obligation certificate which has previously been or is produced to the Northern Ireland authority under a NIRO Order.

(8) In this article, "co-firing of biomass with CHP", "co-firing of energy crops" and "co-firing of energy crops with CHP" have the same meaning as in Schedule 2.

(**a**) See www.scotland.gov.uk/home for publication.

PART 3

Matters to be certified by and content of SROCs

Matters to be certified by SROCs

14. Where a SROC does not certify the matters within subsection (3) or (4) of section 32B of the Act, it must certify the matters within subsection (5), (6), (7) or (8) of that section.

When electricity is to be regarded as supplied to customers in Great Britain or Northern Ireland

15.—(1) For the purposes of sections 32 to 32L of the Act (in particular, for the purposes of a SROC certifying the matters within section 32B(3) or (5)), electricity generated by a generating station which cannot be shown to have been supplied to customers in Great Britain is to be regarded as having been so supplied if and to the extent that the conditions in paragraph (2) or (3) are met.

(2) The conditions in this paragraph are met if–

(a) the generating station is located in Northern Ireland;

(b) the operator of the generating station or an intermediary acting on the operator's behalf sells the electricity generated by the station through the SEM Pool;

(c) an electricity supplier purchases (directly or indirectly) from the SEM Pool an amount of electricity (the "relevant amount") which is conveyed from a transmission or distribution system located wholly or partly in Northern Ireland to Great Britain through an electricity interconnector;

(d) the supplier–

(i) has previously agreed with the operator to purchase from the SEM Pool the relevant amount; and

(ii) supplies the electricity so purchased to customers in Great Britain; and

(e) the relevant amount in any month, when taken together with the electricity which other electricity suppliers have agreed with the operator to purchase from the SEM Pool in that month, does not exceed the total amount of electricity which the operator sells through the SEM Pool in that month.

(3) The conditions in this paragraph are met if–

(a) the generating station is located in Northern Ireland and has a declared net capacity of less than 10 megawatts;

(b) the operator of the generating station sells electricity to an electricity supplier under a contract to which the operator and supplier are parties; and

(c) the electricity conveyed to the supplier under the contract–

(i) is conveyed from a transmission or distribution system located wholly or partly in Northern Ireland to Great Britain through an electricity interconnector; and

(ii) is supplied to customers in Great Britain.

(4) For the purposes of sections 32 to 32L of the Act (in particular, for the purposes of a SROC certifying the matters within section 32B(4) or (6)), electricity which cannot be shown to have been supplied to customers in Northern Ireland is to be regarded as having been so supplied if it has been sold through the SEM Pool or under a contract in circumstances where, had the electricity been generated by a generating station mentioned in article 54(1) of the Northern Ireland Energy Order, the Northern Ireland authority would have been entitled to issue a Northern Ireland certificate in respect of it.

(5) For the purposes of this article, a generating station is to be treated as if it is located in Northern Ireland if it is neither in Northern Ireland nor on land but is connected directly to a transmission or distribution system (or the part of such a system) that is located in Northern Ireland (and to no other system or part thereof).

(6) In this article–

"intermediary", in relation to the operator of a generating station, and "SEM Pool" have the same meaning as they have in article 16 of the Renewables Obligation Order (Northern Ireland) 2007(**a**) or, where that order has been revoked, as they have in any NIRO Order for the time being in force; and

"Northern Ireland" has the same meaning as in article 54(1) of the Northern Ireland Energy Order.

When electricity is used in a permitted way for SROCs certifying matters within section 32B(7) or (8) of the Act

16.—(1) For the purposes of section 32B(7) and (8) of the Act (in particular, for the purposes of a SROC certifying the matters within section 32B(7) or (8)), electricity generated by a generating station of any description is used in a permitted way if, subject to paragraph (2), it is used in any of the ways mentioned in section 32B(10) of the Act.

(2) Electricity is not used in a permitted way if it is supplied to customers in Great Britain through a private wire network and–

(a) the generating station from which the electricity is conveyed has a declared net capacity in excess of 10 megawatts; and

(b) at some point before the electricity is supplied to customers through the private wire network it is conveyed through a transmission or distribution system operated under a licence granted under section 6 of the Act.

PART 4

Cases and circumstances when a SROC must not be issued

Excluded generating stations

17.—(1) SROCs are not to be issued in respect of any electricity generated by a generating station located in England and Wales.

(2) SROCs are not to be issued in respect of any electricity generated by a generating station mentioned in Article 54(1) of the Northern Ireland Energy Order where the electricity has been supplied to customers in Northern Ireland.

(3) SROCs are not to be issued in respect of any electricity generated by a generating station located beyond the seaward limits of the territorial sea adjacent to the United Kingdom unless–

(a) it is connected directly to a transmission or distribution system (or the part of such a system) located in Northern Ireland (and to no other system or part thereof); or

(b) it is an area designated under section 1(7) of the Continental Shelf Act 1964(**b**) or in a Renewable Energy Zone designated by the Renewable Energy Zone (Designation of Areas) (Scottish Ministers) Order 2005(**c**) as an area to which the Scottish Ministers are to have functions.

(**a**) S.R. (N.I.) 2007 No. 104. Articles 2(1) and 16 were amended by the Renewables Obligation (Amendment) Order (N.I.) 2007 (S.R. (N.I.) 2007 No. 440).

(**b**) 1964 c.29. This provision was amended by the Oil and Gas (Enterprise) Act 1982 (c.23), section 37 and Schedule 3, paragraph 1.

(**c**) S.I. 2005/3153.

(4) SROCs are not to be issued in respect of any electricity generated by a large hydro generating station (wherever that station is located) if the station was first commissioned on or before 1st April 2002.

(5) In this article–

"Northern Ireland" has the same meaning as in Article 54(1) of the Northern Ireland Energy Order;

"England and Wales" includes–

(a) so much of the internal waters and territorial sea of the United Kingdom as are adjacent to England and Wales;

(b) a Renewable Energy Zone, or any part of such a Zone, designated by the Renewable Energy Zone (Designation of Area) Order 2004(**a**) as does not include the area designated by the Renewable Energy Zone (Designation of Area) (Scottish Ministers) Order 2005 as an area in relation to which the Scottish Ministers are to have functions.

Generating stations first commissioned before 1st January 1990

18.—(1) This article applies to a generating station–

(a) which was first commissioned before 1st January 1990;

(b) the main components of which have not been renewed since 31st December 1989; and

(c) which is not a micro hydro generating station.

(2) No SROCs are to be issued in respect of any electricity generated in any month by a generating station to which this article applies unless all of the electricity generated by that station during that month–

(a) is generated–

(i) partly from fossil fuel; and

(ii) partly from renewable sources which consist wholly of–

(aa) biomass;

(bb) biomass and Solid Recovered Fuel; or

(cc) a liquid or gaseous fuel produced by means of gasification, pyrolysis or anaerobic digestion; or

(b) is generated from biomass and the following conditions are met–

(i) where that station generated electricity in any month prior to April 2003, no less than 75 per cent of the energy content of the fuel used to generate that electricity was derived from fossil fuel;

(ii) the first month in which all of the electricity generated by that station was generated from biomass occurred after March 2004; and

(iii) in relation to electricity generated in any month after that first month by that station, no more than 75 per cent of the energy content of the fuel used to generate that electricity was derived from fossil fuel.

(3) For the purposes of paragraph (1)(b), the main components of a generating station are only to be regarded as having been renewed since 31st December 1989–

(a) in the case of a hydro generating station, where the following parts have been installed in the generating station after 31st December 1989 and were not used for the purpose of electricity generation prior to their installation–

(i) all the turbine runners or all the turbine blades or the propeller; and

(ii) all the inlet guide vanes or all the inlet guide nozzles;

(b) in the case of any other generating station, where all the boilers and turbines (driven by any means including wind, water, steam or gas) have been installed in the generating

(**a**) S.I. 2004/2668.

station after 31st December 1989 and were not used for the purpose of electricity generation prior to their installation.

(4) For the purposes of paragraph (2)–

(a) in sub-paragraph (a)(i), fossil fuel does not include waste which is a renewable source; and

(b) in determining whether or not the requirements of sub-paragraph (a) or (b) are met, no account is to be taken of any fossil fuel or waste which the generating station uses for permitted ancillary purposes.

Generating stations generating under arrangements referred to in the Electricity (Northern Ireland) Order 1992

19. No SROCs are to be issued in respect of any electricity generated by a generating station which generates electricity under the arrangements or additional arrangements referred to in Article 35(1) of the Electricity (Northern Ireland) Order 1992(**a**).

Generating stations in respect of which a NFFO arrangement applied but was terminated

20.—(1) This article applies where–

(a) a NFFO arrangement ("the applicable NFFO arrangement") provided for the building of a generating station at a specified location ("the location");

(b) the applicable NFFO arrangement was terminated due to the operator of the generating station to which it applied having committed an unremedied breach of it; and

(c) the last period in the tables contained in Schedule 1 to the Non-Fossil Fuel Order which relates to the applicable NFFO arrangement has not expired.

(2) Subject to paragraph (3), where this article applies no SROCs are to be issued in respect of any electricity generated by a generating station–

(a) which is situated wholly or partly at the location;

(b) to which the applicable NFFO arrangement applied at the time it was commissioned; and

(c) which is owned or operated by a person–

(i) who was a party to the applicable NFFO arrangement; or

(ii) who is a connected person or a linked person in relation to any such party.

(3) Paragraph (2) does not apply in relation to electricity generated by a generating station in a month in which all of the electricity generated by that station is sold pursuant to another NFFO arrangement.

Non-commissioned generating stations in respect of which a NFFO arrangement applies

21.—(1) This article applies where a NFFO arrangement ("the applicable NFFO arrangement") provides for the building of a generating station ("the specified station") at a specified location ("the location") and the specified station has not been commissioned.

(2) Subject to paragraph (3), where this article applies no SROCs are to be issued in respect of any electricity generated by a generating station which–

(a) is situated wholly or partly at the location; and

(b) is owned or operated by a person who is a party to the applicable NFFO arrangement or who is a connected person or a linked person in relation to any such party.

(3) Paragraph (2) does not apply in relation to electricity generated by a generating station in a month in which all of the electricity generated by that station is sold pursuant to another NFFO arrangement.

(**a**) S.I. 1992/231 (N.I. 1), Article 35 is prospectively repealed by S.I. 2003/419 (N.I. 6), but the relevant provision has not yet been commenced.

Circumstances in which no SROCs are to be issued in respect of electricity generated from renewable sources

22.—(1) No SROCs are to be issued in respect of any electricity generated by a generating station in a month during all or part of which it generates electricity–

(a) wholly from renewable sources which consist of or include waste unless–

(i) the waste is biomass;

(ii) the waste is a liquid consisting wholly or mainly of hydrocarbon compounds;

(iii) the waste is in the form of a liquid or gaseous fuel produced by means of gasification, pyrolysis or anaerobic digestion; or

(iv) the generating station is a qualifying combined heat and power generating station;

(b) partly from renewable sources and partly from fossil fuel unless the renewable sources consist of–

(i) biomass;

(ii) biomass and Solid Recovered Fuel; or

(iii) a liquid or gaseous fuel produced by means of gasification, pyrolysis or anaerobic digestion;

(c) partly from renewable sources and partly from fossil fuel where the fossil fuel consists of or includes waste unless that waste is–

(i) liquid consisting wholly or mainly of hydrocarbon compounds;

(ii) in the form of a liquid or gaseous fuel produced by means of gasification, pyrolysis or anaerobic digestion; or

(iii) Solid Recovered Fuel;

(d) wholly or partly from peat.

(2) In this article–

(a) in paragraph (1)(a) and (c), waste includes anything derived directly or indirectly from waste;

(b) in paragraph (1)(b) and (c), fossil fuel does not include waste which is a renewable source; and

(c) in determining how electricity has been generated for the purposes of paragraph (1)(a), (b) or (c), no account is to be taken of any fossil fuel or waste which the generating station uses for permitted ancillary purposes.

(3) For the purposes of paragraph (2)(c), fossil fuel or waste (which includes anything derived directly or indirectly from waste) is used for permitted ancillary purposes if–

(a) it is used in a generating station for–

(i) cleansing other fuels from the generating station's combustion system prior to using fossil fuel or waste to heat the combustion system to its normal temperature;

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

(iii) the ignition of fuels of low or variable calorific value;

(iv) emission control; or

(v) standby generation or the testing of standby generation capacity, and

(b) the energy content of the fossil fuel or waste so used during a month (or, where both are so used during a month, their combined energy content) does not exceed 10 per cent of the energy content of all the energy sources used by that generating station to generate electricity during that month.

(4) In this article, "standby generation" means the generation of electricity by equipment which is not used frequently or regularly to generate electricity and where all the electricity generated by that equipment is used by the generating station.

Circumstances in which no SROCs are to be issued by virtue of section 32C(8)(a) of the Act

23. No SROCs certifying the matters within section 32B(4) or (6) of the Act are to be issued where the Northern Ireland authority has notified the Authority that it is not satisfied that the electricity in respect of which the SROCs are to be issued has been supplied to customers in Northern Ireland.

PART 5

SROCs to be issued by Authority in respect of renewable output

SROCs to be issued by Authority in respect of a generating station's renewable output

24.—(1) The Authority is to issue SROCs.

(2) Subject to paragraph (3) and article 60 (modification of this Order in relation to microgenerators in certain circumstances), SROCs–

(a) are to be issued in respect of a generating station's renewable output in a month; and

(b) must not be issued before the end of the second month following that month.

(3) When issuing SROCs in respect of electricity generated in a month by a generating station or, in the case of SROCs certifying the matters within section 32B(5), (6) or (8) of the Act, two or more generating stations, the Authority must–

(a) determine the renewable output of that generating station or, as the case may be, those generating stations in that month in accordance with article 25 or 26 (whichever is applicable);

(b) where one or more of the criteria set out in articles 36 to 40 have to be satisfied before SROCs can be issued in respect of that station's or those stations' renewable output, deduct from that output any electricity in respect of which any of those criteria are not satisfied; and

(c) issue SROCs in respect of that station's or those stations' remaining renewable output, the amount of electricity to be stated in each SROC being determined in accordance with articles 27 to 32 (banding and grandfathering).

(4) Where a generating station generates electricity–

(a) wholly from renewable sources a proportion of which is composed of fossil fuel;

(b) wholly from renewable sources and the input electricity used by the generating station in generating that electricity exceeds 0.5 per cent of the total amount of that electricity; or

(c) partly from renewable sources and partly from fossil fuel,

SROCs are to be issued in respect of a proportion only of the electricity generated by the station.

(5) Where the number of megawatt hours of renewable output in respect of which SROCs are to be issued does not equate to a whole number of SROCs, the number of megawatt hours is to be rounded to the nearest figure which does so equate (and where there are two such figures, the number of megawatt hours is to be rounded upwards).

(6) In this article "input electricity", in relation to a generating station, means–

(a) the total amount of electricity used by that station for purposes directly related to its operation (including for fuel handling, fuel preparation, maintenance and the pumping of water) whether or not that electricity is generated by the station or used while the station is generating electricity; and

(b) where the station generates electricity wholly or partly from hydrogen (other than hydrogen that constitutes fossil fuel), any electricity–

(i) in respect of which SROCs are or have been issued;

(ii) in respect of which SROCs cannot be issued by virtue of any provision of Part 4 (cases and circumstances when a SROC must not be issued); or

(iii) which was not generated from renewable sources,

and which is used in the production of that hydrogen (regardless of where or by whom the hydrogen is produced).

Calculating a generating station's renewable output

25.—(1) Subject to article 26, the renewable output of a generating station in any month is equal to–

(a) where the input electricity used by the generating station during that month does not exceed 0.5 per cent of the gross output of that station during that month, A; and

(b) in any other case, $A \times \frac{B}{C}$.

(2) In paragraph (1)–

(a) A is equal to $C \times \frac{D}{E}$ where–

(i) C is the gross output of the generating station during the month in question;

(ii) D is the energy content of all of the renewable sources used in generating that station's gross output during that month, less the energy content of–

(aa) any fossil fuel from which those renewable sources are in part composed (other than fossil fuel from which a fuel the energy content of which is deducted by virtue of sub-heads (bb) to (dd) is in part composed);

(bb) any of those renewable sources which is Solid Recovered Fuel (other than Solid Recovered Fuel which constitutes biomass);

(cc) any of those renewable sources which is a liquid fuel produced by means of pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 10 megajoules per metre cubed; and

(dd) except in the case of an excepted generating station, any of those renewable sources which is a gaseous fuel produced by means of gasification or pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 2 megajoules per metre cubed;

(iii) E is the energy content of all of the fuels used in generating that station's gross output during that month;

(b) B is the gross output of that station during that month less the input electricity it uses during that month.

(3) Subject to paragraph (4), where during any month the renewable output of a generating station is generated in two or more ways and the amount of electricity to be stated in each SROC issued in respect of that renewable output is not always the same (because the amount of electricity to be stated in SROCs issued in respect of electricity generated in one or more of those ways differs from the amount to be stated in SROCs issued in respect of some or all of the remaining electricity by virtue of articles 27 to 32), the proportion of the station's renewable output which, for the purposes of those articles, is generated in each of those ways is $F \div G$ where–

(a) F is the energy content of the renewable sources used when generating electricity in that way during that month less the energy content of–

(i) any fossil fuel from which those renewable sources are in part composed (other than fossil fuel from which a fuel the energy content of which is deducted by virtue of heads (ii) to (iv) is in part composed);

(ii) any of those renewable sources which is a Solid Recovered Fuel (other than Solid Recovered Fuel which constitutes biomass);

(iii) any of those renewable sources which is a liquid fuel produced by means of pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 10 megajoules per metre cubed; and

(iv) except in the case of an excepted generating station, any of those renewable sources which is a gaseous fuel produced by means of gasification or pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 2 megajoules per metre cubed**;** and

(b) G is the energy content of all of the renewable sources used in generating that generating station's gross output during that month less the energy content of–

(i) any fossil fuel from which those renewable sources are in part composed (other than fossil fuel from which a fuel the energy content of which is deducted by virtue of heads (ii) to (iv) is in part composed);

(ii) any of those renewable sources which is Solid Recovered Fuel (other than Solid Recovered Fuel which constitutes biomass);

(iii) any of those renewable sources which is a liquid fuel produced by means of pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 10 megajoules per metre cubed; and

(iv) except in the case of an excepted generating station, any of those renewable sources which is a gaseous fuel produced by means of gasification or pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 2 megajoules per metre cubed**.**

(4) In any month where a generating station generates some or all of its renewable output using mixed gas, the proportion of the station's renewable output which is, for the purposes of articles 27 to 31–

(a) generated using mixed gas in the way described as "AD" in Schedule 2 is $\frac{H}{I} \times \frac{J}{L}$;

(b) generated using mixed gas in the way described as "electricity generated from sewage gas" in that Schedule is $\frac{H}{I} \times \frac{K}{L}$.

(5) In paragraph (4)–

(a) H is the energy content of the mixed gas used when generating the generating station's renewable output during the month in question;

(b) I is the energy content of all of the renewable sources used in generating that station's renewable output during that month;

(c) J is the dry mass of–

(i) any waste which constitutes a renewable source (other than sewage); and

(ii) any biomass (other than sewage),

from which the mixed gas used in generating that station's renewable output during that month is formed, less the dry mass of any digestible fossil fuel from which that waste or biomass is in part composed;

(d) K is the dry mass of the sewage from which the mixed gas used in generating that station's renewable output in that month is formed; and

(e) L is the dry mass of all of the material from which the mixed gas used in generating the station's renewable output during that month is formed, less the dry mass of any digestible fossil fuel from which that material is in part composed.

(6) In this article–

"dry mass", in relation to a fuel, means the mass of the fuel when any water present in it has been removed;

"excepted generating station" means a generating station–

(a) which is accredited on or before 31st March 2011;

(b) which, since being accredited, has not ceased to be accredited at any time; and

(c) in respect of which, if it was not accredited as at 31st March 2009, preliminary accreditation was held on and from that date until the date on which it was accredited;

"gross output", in relation to a generating station, means the total amount of electricity generated by that station;

"input electricity" has the same meaning as in article 24; and

"mixed gas" means gas formed by the anaerobic digestion of sewage together with–

(a) waste which constitutes a renewable source (other than sewage); or

(b) biomass (other than sewage).

Renewable output of a qualifying combined heat and power generating station

26.—(1) For the purposes of determining the renewable output of a qualifying combined heat and power generating station in any month during which it generates electricity from waste (other than waste which constitutes biomass or is used for permitted ancillary purposes or is in the form of a liquid or gaseous fuel produced by means of gasification, pyrolysis or anaerobic digestion), article 25 applies subject to the following modifications.

(2) For paragraph (2)(a)(ii) of article 25, substitute–

"(ii) D is the energy content of all of the renewable sources used in generating that station's gross output during that month, less the energy content of–

(aa) any fossil fuel from which those renewable sources are in part composed (other than fossil fuel from which a fuel the energy content of which is deducted by virtue of sub-paragraph (bb) or (cc) is in part composed);

(bb) any of those renewable sources which is a liquid fuel produced by means of pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 10 megajoules per metre cubed;

(cc) except in the case of an excepted generating station, any of those renewable sources which is a gaseous fuel produced by means of gasification or pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 2 megajoules per metre cubed,

multiplied by the proportion which the qualifying power output of that station bears to its total power output;".

(3) For paragraph (3)(a) of that article, substitute–

"(a) F is the energy content of the renewable sources used when generating electricity in that way during that month less the energy content of–

(i) any fossil fuel from which those renewable sources are in part composed (other than fossil fuel from which a fuel the energy content of which is deducted by virtue of paragraph (ii) or (iii) is in part composed);

(ii) any of those renewable sources which is a liquid fuel produced by means of pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 10 megajoules per metre cubed;

(iii) except in the case of an excepted generating station, any of those renewable sources which is a gaseous fuel produced by means of gasification or pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 2 megajoules per metre cubed; and".

(4) For paragraph (3)(b) of that article, substitute–

"(b) G is the energy content of all of the renewable sources used in generating that generating station's gross output during that month less the energy content of–

(i) any fossil fuel from which those renewable sources are in part composed (other than fossil fuel from which a fuel the energy content of which is deducted by virtue of paragraph (ii) or (iii) is in part composed);

(ii) any of those renewable sources which is a liquid fuel produced by means of pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 10 megajoules per metre cubed;

(iii) except in the case of an excepted generating station, any of those renewable sources which is a gaseous fuel produced by means of gasification or pyrolysis and which has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the station of less than 2 megajoules per metre cubed.".

PART 6

Banding and grandfathering

The amount of electricity to be stated in each SROC

27.—(1) Each SROC is to state the amount of electricity in respect of which it has been issued.

(2) The amount of electricity to be stated in each SROC depends on the way in which the electricity in respect of which it is to be issued has been generated.

(3) Subject to articles 28 to 32, the amount of electricity to be stated in each SROC is to be determined in accordance with paragraphs (4) and (5).

(4) Each SROC to be issued in respect of electricity generated in a way described in the first column of Part 2 of Schedule 2 must state the amount of electricity which corresponds to that description in the second column of that Part of that Schedule.

(5) The amount of electricity to be stated in each SROC which is issued in respect of electricity generated in a way which is not described in the first column of Part 2 of Schedule 2 is 1 megawatt hour.

Qualifying combined heat and power generating stations

28.—(1) Subject to articles 29 and 32, where electricity generated by a qualifying combined heat and power generating station is generated in the way described as "co-firing of biomass" in Schedule 2, and the fossil fuel and regular biomass referred to are burnt in separate boilers or engines, the amount of electricity to be stated in each SROC is–

(a) in respect of the relevant proportion of that electricity, 1 megawatt hour; and

(b) in respect of the remainder of that electricity, 2 megawatt hours.

(2) Subject to articles 29 and 32, where electricity generated by a qualifying combined heat and power generating station is generated in the way described as "co-firing of energy crops" in Schedule 2, and the fossil fuel and energy crops referred to are burnt in separate boilers or engines, the amount of electricity to be stated in each SROC is–

(a) in respect of the relevant proportion of that electricity, 2/3rds of a megawatt hour; and

(b) in respect of the remainder of that electricity, 1 megawatt hour.

(3) Subject to articles 29 and 32, where electricity generated by a qualifying combined heat and power generating station is generated in the way described as "dedicated biomass" in Schedule 2, the amount of electricity to be stated in each SROC is–

(a) in respect of the relevant proportion of that electricity, 1/2 of a megawatt hour; and

(b) in respect of the remainder of that electricity, 2/3rds of a megawatt hour.

(4) In this article, "the relevant proportion", in relation to electricity generated by a qualifying combined heat and power generating station, is the proportion which the qualifying power output of that station bears to its total power output.

Microgenerators

29.—(1) This article applies to a generating station which–

(a) is a microgenerator; and

(b) has not had a declared net capacity in excess of 50 kilowatts at any time after 31st March 2009.

(2) The amount of electricity to be stated in each SROC which is issued in respect of electricity generated by a generating station to which this article applies is 0.5 megawatt hours.

Generating stations which were accredited as at 11th July 2006

30.—(1) This article applies to a generating station–

(a) which was accredited as at 11th July 2006;

(b) which has not ceased to be accredited since that date; and

(c) to which neither article 28 nor article 29 applies.

(2) Subject to paragraphs (3) to (6), the amount of electricity to be stated in each SROC issued in respect of electricity generated by a generating station to which this article applies is to be determined in accordance with article 27(4) and (5).

(3) Where the electricity generated by a generating station to which this article applies is generated in a way described in the first column of Part 3 of Schedule 2, the amount of electricity to be stated in each SROC issued in respect of that electricity is (subject to paragraphs (4) to (6)) the amount which corresponds to that description in the second column of that Part of that Schedule.

(4) Where, at the time it generates the electricity, the generating station's total installed capacity is greater than it was on 11th July 2006, paragraph (3) applies only in relation to SROCs which are to be issued in respect of–

(a) where electricity generated using the total installed capacity of the station as at 11th July 2006 ("the original capacity") is measured separately from electricity generated using capacity which has been added to the station since that date ("additional capacity"), the electricity which is generated using the station's original capacity;

(b) in any other case, the appropriate percentage of the electricity generated by the station (the appropriate percentage for these purposes being the total installed capacity of the station as at 11th July 2006 expressed as a percentage of the total installed capacity of the station as at the date of generation of the electricity).

(5) In relation to the remainder of the electricity generated by the generating station, the amount of electricity to be stated in each SROC is to be determined in accordance with article 27(4) and (5) except to the extent that the electricity–

(a) is generated using additional capacity which was operational before 1st April 2011 ("relevant additional capacity"); and

(b) is generated in a way described in the first column of Part 4 of Schedule 2.

(6) Where the electricity generated by the generating station is generated using relevant additional capacity in a way described in the first column of Part 4 of Schedule 2, the amount of electricity to be stated in each SROC which is to be issued in respect of that electricity is the amount which corresponds to that description in the second column of that Part of that Schedule.

(7) In paragraphs (5) and (6), the reference to electricity being generated using relevant additional capacity is a reference to–

(a) where electricity generated using relevant additional capacity is measured separately from electricity generated otherwise than by using such capacity, the electricity which is generated using that capacity;

(b) in any other case, the appropriate percentage of the electricity generated by the generating station (the appropriate percentage for these purposes being the relevant additional capacity of the station at the date of generation of the electricity expressed as a percentage of the total installed capacity of the station at that date).

(8) This article is subject to article 32.

Generating stations which were accredited, or held preliminary accreditation, as at 31st March 2009

31.—(1) This article applies to a generating station–

(a) which was accredited as at 31st March 2009;

(b) which has not ceased to be accredited since that date; and

(c) to which articles 28 to 30 do not apply.

(2) This article also applies to a generating station–

(a) which is accredited on or before 31st March 2011;

(b) which, since being accredited, has not ceased to be accredited at any time;

(c) in respect of which preliminary accreditation was held–

(i) as at 31st March 2009; and

(ii) from that date until the date on which the station was accredited; and

(d) to which articles 28 to 30 do not apply.

(3) Subject to paragraphs (4) to (6), the amount of electricity to be stated in each SROC issued in respect of electricity generated by a generating station to which this article applies is to be determined in accordance with article 27(4) and (5).

(4) Where the electricity generated by a generating station to which this article applies is generated in a way described in the first column of Part 4 of Schedule 2, the amount of electricity to be stated in each SROC issued in respect of that electricity is (subject to paragraph (5)) the amount which corresponds to that description in the second column of that Part of that Schedule.

(5) Where, at any time it generates electricity after 31st March 2011, the generating station's total installed capacity is greater than it was on 31st March 2011, paragraph (4) applies only in relation to SROCs which are to be issued in respect of–

(a) where electricity generated using the total installed capacity of the station as at 31st March 2011 ("the original capacity") is measured separately from electricity generated using capacity which has been added to the station since that date, the electricity which is generated using the station's original capacity; and

(b) in any other case, the appropriate percentage of the electricity generated by the station (the appropriate percentage for these purposes being the total installed capacity of the station as at 31st March 2011 expressed as a percentage of the total installed capacity of the station as at the date of generation of the electricity).

(6) In relation to the remainder of the electricity generated by the generating station, the amount of electricity to be stated in each SROC is to be determined in accordance with article 27(4) and (5).

(7) This article is subject to article 32.

Generating stations in respect of which a statutory grant has been awarded

32.—(1) This article applies to a generating station–

(a) in respect of which a statutory grant was awarded on or before 11th July 2006; and

(b) which either–

(i) was granted accreditation which took effect after 11th July 2006; or

(ii) generates electricity from biomass or waste (including fuels produced from biomass or waste by means of gasification, pyrolysis or anaerobic digestion); and

(c) which is not a microgenerator.

(2) The operation of articles 27 to 31 in relation to electricity generated by a generating station to which this article applies is conditional upon the operator of the station agreeing–

(a) if the grant or any part of it has been paid, to repay to the Scottish Ministers on or before 31st March 2011 so much of the grant as has been paid;

(b) to pay to the Scottish Ministers interest on an amount repayable under sub-paragraph (a) for such period, and at such rate, as may be determined by the Scottish Ministers; and

(c) if the grant or any part of it has not yet been paid, to consent to the cancellation of the award of the grant or part.

(3) Where a generating station to which this article applies generates electricity at a time when the operator of the station–

(a) has not so agreed; or

(b) having so agreed, has not produced to the Authority evidence of–

(i) the repayment of all amounts due under paragraph (2)(a) or the payment of all amounts of interest due under paragraph (2)(b); and

(ii) where a grant or any part has been cancelled under paragraph (2)(c), the cancellation of that grant or part,

the amount of electricity to be stated in each SROC issued in respect of that electricity is 1 megawatt hour or the amount determined in accordance with article 27 or 28, whichever is the greater.

(4) In determining how electricity has been generated for the purposes of paragraph (1)(b)(ii), no account is to be taken of any waste which the generating station uses for permitted ancillary purposes.

Review of banding provisions

33.—(1) In this Order, "banding provision" means a provision of articles 27 to 31.

(2) The Scottish Ministers may commence a review of the banding provisions in October 2010 and at subsequent four yearly intervals.

(3) The Scottish Ministers may review all or any of the banding provisions at any time if satisfied that one or more of the following conditions is satisfied–

(a) the charges imposed by network operators on persons, or a class of persons, making a request for connection to and use of a transmission or distribution system have changed significantly since the Scottish Ministers made the banding provisions;

(b) the charges imposed by network operators on persons, or a class of persons, who generate electricity have changed significantly since the Scottish Ministers made the banding provisions;

(c) a way of generating electricity is being or has been developed that–

(i) is likely to be used to generate from renewable sources electricity which is supplied to customers in Great Britain; and

(ii) is not listed in the first column of Part 2 of Schedule 2;

(d) there has been a change, since the Scottish Ministers made the banding provisions, in any support, whether financial or otherwise, provided under any enactment other than sections 32 to 32M of the Act to persons generating electricity from renewable sources and that change is likely to have a significant impact on the generation of electricity from renewable sources;

(e) the costs of generating electricity in any of the ways listed in the first column of Part 2 of Schedule 2 are significantly different from the costs of generating electricity in that way to which the Scottish Ministers had regard when making the banding provisions;

(f) there is evidence over a significant period that the provisions of article 13(3) to (5) are having a material effect on trade in SROCs referred to in article 13(3) and (4);

(g) in an obligation period the number of SROCs issued by, produced to or likely to be produced to the Authority exceeds or is likely to exceed the total number of SROCs required to be produced to the Authority in respect of that obligation period by designated electricity suppliers;

(h) an event has occurred which–

(i) is relevant to the matters set out in section 32D(4) of the Act;

(ii) was not foreseen by the Scottish Ministers when making the banding provisions; or

(iii) has had or is likely to have a material effect on the operation of this Order.

(4) In this article, "network operators" are persons authorised by a licence under section 6(1)(b) or (c) of the Act to participate in the transmission of electricity or to distribute electricity.

PART 7

Issue and revocation of SROCs

Issue of SROCs to generators and suppliers

34.—(1) Subject to paragraphs (2) to (4) and article 35 (issue of SROCs to agents), the Authority is to issue a SROC to the operator of the generating station by which the electricity to which the SROC relates was generated.

(2) Where electricity–

(a) is required to be generated by a generating station from renewable sources under a NFFO arrangement; or

(b) in compliance with such an arrangement, is required to be made available to the nominated person,

SROCs are to be issued as set out in paragraphs (3) and (4).

(3) Where by virtue of the NFFO arrangement the nominated person is entitled to the electricity, SROCs are to be issued to electricity suppliers notified to the Authority by the nominated person as being purchasers of the electricity and to each in such numbers as are appropriate to the amount of the electricity which the nominated person notifies the Authority each has purchased (subject to the total number of SROCs available to be issued in respect of the electricity).

(4) Where electricity suppliers are entitled to electricity under a NFFO arrangement, SROCs are to be issued to those electricity suppliers, each in proportion to its entitlement.

Issue of SROCs to agents

35.—(1) This article applies to a SROC which certifies the matters within section 32B(5), (6) or (8) of the Act (a "relevant SROC").

(2) Where the generating stations to which a relevant SROC relates are operated by two or more persons ("the operators"), that SROC must be issued to an agent appointed for the purpose by the operators.

(3) The Authority must be notified in writing of the agent's appointment, name and address.

(4) That notification may be provided to the Authority by the operators (or any of them) or the agent.

(5) The Authority must be notified in writing if the agent's appointment is terminated.

(6) That notification may be provided to the Authority by the operators (or any of them) or the agent.

(7) Where notice is given under paragraph (5) and received by the Authority, the termination will take effect (subject to paragraph (8)) at the end of the obligation period during which it is given, and until the expiration of that obligation period the Authority must continue to issue any relevant SROCs to the agent.

(8) Notwithstanding paragraph (7), after the expiration of that obligation period the Authority must continue to issue relevant SROCs to the agent where those SROCs relate to electricity generated during that obligation period.

(9) Paragraphs (7) and (8) do not apply in any case where the Authority is satisfied, by evidence produced to it, that owing to exceptional circumstances the termination should have immediate effect.

(10) Where an agent's appointment has been terminated the agent is required to return to the operators any relevant information relating to the generation of electricity by their stations.

(11) Where any provision of this Order requires or permits something to be done by, to or in respect of an agent appointed under this article and the agent's appointment is terminated before that thing is done, references to that agent (however framed) are to be construed–

(a) where a successor to the agent has been appointed under this article, as references to that successor; and

(b) in any other case, as references to the operators of the generating stations for whom the agent acted before the appointment was terminated.

General criteria for the issue of SROCs

36.—(1) Subject to article 37, once during each obligation period the person to whom a SROC is to be issued must confirm to the Authority in writing, whether before or after the generation of the electricity to which the SROC relates, that that electricity, to the best of the person's knowledge and belief, has been or (as the case may be) will be–

(a) in the case of a SROC certifying the matters within section 32B(3) or (5) of the Act, supplied by a designated electricity supplier to customers in Great Britain;

(b) in the case of a SROC certifying the matters within section 32B(4) or (6) of the Act, supplied by a Northern Ireland supplier to customers in Northern Ireland; and

(c) in the case of a SROC certifying the matters within section 32B(7) or (8) of the Act, used in a permitted way.

(2) The electricity in respect of which a SROC is to be issued–

(a) must be generated during a month in which the generating station generating it is accredited under this Order or an Order made under Article 52 of the Northern Ireland Energy Order and any conditions to which the accreditation is subject are met;

(b) subject to paragraph (3), must be measured using a meter which, if used for ascertaining the quantity of electricity supplied by an authorised supplier to a customer, would be approved for the purposes of paragraph 2(1)(a) of Schedule 7 to the Act; and

(c) must not include electricity in respect of which a SROC–

(i) has already been issued under this Order and has not been revoked; or

(ii) has already been issued under an Order made under sections 32 to 32M of the Act by the Secretary of State (whether or not it has been revoked).

(3) Paragraph (2)(b) does not apply in relation to electricity generated by a generating station the operator of which has agreed with the Authority that estimates may be provided instead of measurements using a meter.

(4) Any information which–

(a) is relevant to the question whether a SROC is to be issued; and

(b) is requested by or required to be provided to the Authority under article 53 (provision of information to the Authority),

must be provided in the form and time requested and must be (in the Authority's opinion) accurate and reliable.

(5) Where such information relates to the fuel used in the generation of that electricity and the fuel did not originate at the generating station, in determining whether that information is accurate and reliable the Authority must have regard to–

(a) the distance over which the fuel was transported; and

(b) the conditions under which the fuel was prepared and transported.

Criteria applicable to SROCs where article 36(1)(a) or (b) cannot be complied with

37.—(1) Where a SROC certifying the matters within section 32B(3) or (5) of the Act is to be issued and article 36(1)(a) cannot be complied with because the electricity in respect of which the SROC is to be issued cannot be shown to have been supplied to customers in Great Britain, the person to whom the SROC is to be issued must confirm to the Authority in writing–

(a) that the electricity in question is to be regarded as having been supplied to customers in Great Britain by virtue of article 15(2) or (3); and

(b) where it is located otherwise than on land, that the generating station to which the SROC relates is connected directly to a transmission or distribution system (or the part of such a system) that is located in Northern Ireland (and to no other system or part thereof).

(2) Where a SROC certifying the matters within section 32B(4) or (6) of the Act is to be issued and article 36(1)(b) cannot be complied with because the electricity in respect of which the SROC is to be issued cannot be shown to have been supplied to customers in Northern Ireland, the person to whom the SROC is to be issued must confirm to the Authority in writing that the electricity in question is to be regarded as having been supplied to customers in Northern Ireland by virtue of article 15(4).

(3) In this article "Northern Ireland" has the same meaning as in Article 54(1) of the Northern Ireland Energy Order.

Further criterion applicable to SROCs certifying matters within section 32B(3) and (5) of the Act where electricity generated otherwise than on land

38. Where a SROC certifying the matters within section 32B(3) or (5) of the Act is to be issued in relation to a generating station which is not located on land and the confirmation required by article 36(1)(a) has been or is to be given in relation to the electricity generated or to be generated by that station, the person to whom the SROC is to be issued must confirm to the Authority in writing that the generating station to which the SROC relates is connected directly to a transmission or distribution system in Great Britain and the electricity in respect of which it is to be issued cannot be or have been conveyed to Great Britain through an electricity interconnector.

Further criteria applicable to SROCs certifying matters within section 32B(3) to (6) of the Act

39.—(1) Once during each obligation period the person to whom a SROC certifying the matters within section 32B(3), (4), (5) or (6) is to be issued must confirm to the Authority in writing, whether before or after the generation of the electricity to which the SROC relates–

(a) that they are not a person who has been a party to an applicable NFFO arrangement (within the meaning of article 20);

(b) that they are not (and to the best of their knowledge and belief will not during the obligation period in which the confirmation is given become) a person who is a party to an applicable NFFO arrangement (within the meaning of article 21); and

(c) that they are not (and to the best of their knowledge and belief will not during the obligation period in which the confirmation is given become) a person who is a connected person or a linked person in relation to any such party.

(2) Paragraph (1) does not apply where the person to whom the SROC is to be issued is an electricity supplier.

Further criteria applicable to SROCs certifying matters within section 32B(5), (6) and (8) of the Act

40.—(1) Once during each obligation period the person to whom a SROC certifying the matters within section 32B(5), (6) or (8) is to be issued must confirm to the Authority in writing, whether before or after the generation of the electricity to which the SROC relates, the matters set out in paragraph (2).

(2) The matters set out in this paragraph are–

(a) that each of the generating stations in relation to which the SROC is to be issued–

(i) is a microgenerator; and

(ii) is accredited as a generating station capable of generating electricity in the same way from the same renewable source, and

(b) where the generating stations in relation to which the SROC is to be issued are operated by two or more persons ("the operators"), that the operators have each–

(i) appointed the person providing the confirmation to act as agent to receive the SROC on their behalf in accordance with article 35 (issue of SROCs to agents); and

(ii) agreed that their entitlement to SROCs should be determined in the same way (either on a monthly basis or on an annual basis, depending on whether or not a notice has been given to the Authority under article 60(2) (modifications of this Order in relation to microgenerators in certain circumstances)).

Refusing to issue and revoking SROCs

41.—(1) The Authority may refuse to issue a SROC–

(a) where any criterion in articles 36 to 40 which relates to that SROC is not (in its opinion) met;

(b) where any information referred to in article 36(4) or any confirmation provided to it under this Part is not (in its opinion) accurate and reliable.

(2) Where, in relation to any electricity generated by a generating station in a month, the Authority is satisfied that–

(a) any information referred to in article 36(4) is false;

(b) any confirmation provided to it under this Part is false; or

(c) a SROC was issued on the basis of any fraudulent behaviour, statement or undertaking on the part of–

(i) the operator of that generating station;

(ii) a connected person; or

(iii) where SROCs are issued to an agent by virtue of article 35, that agent,

the Authority must revoke all SROCs issued in respect of that electricity in that month.

(3) The Authority must also revoke any SROC which it has issued–

(a) where the SROC certifies the matters within section 32B(4) or (6) of the Act and (before the SROC is produced to it under article 5) the Northern Ireland authority has notified the Authority that it is not satisfied that the electricity in respect of which the SROC was issued has been supplied to customers in Northern Ireland;

(b) where it is otherwise satisfied that the SROC is inaccurate.

(4) Where the Authority–

(a) is no longer satisfied that a SROC should have been issued;

(b) has reasonable doubts as to the accuracy or reliability of the information upon which it relied prior to the issue of a SROC; or

(c) has been unable, due to a failure or refusal by any person (whether inside or outside Scotland) to provide it with any information reasonably requested by it, to check the accuracy of either a SROC or any information which it relied upon prior to the issue of a SROC,

it may revoke the SROC (or another SROC which is identical in all material respects and which has been issued to the same person).

(5) In determining whether to revoke a SROC under paragraph (3)(b) or (4), the Authority may disregard any changes to the amounts for "gross output" (within the meaning of article 25) and "input electricity" (within the meaning of article 24) which were used by it to determine a generating station's renewable output in a month if satisfied that, in all the circumstances, it is reasonable for it to do so.

(6) Where the Authority revokes a SROC it must delete that SROC from the Register and as soon as reasonably practicable afterwards give notice in writing of such revocation to the person who was the registered holder of the SROC at the time of its revocation.

PART 8

Payments to discharge the renewables obligation, dealing with the buy-out and late payment funds, and mutualisation

Interpretation

42.—(1) In this Part–

"buy-out fund" means the fund held by the Authority on the 1st September of the settlement period, being the aggregate of–

(a) amounts received by the Authority under article 43 (those amounts relating to the renewables obligation in the relevant period);

(b) amounts held by the Authority by virtue of articles 46(4)(b), 47(4), 51(5) and 52(6)(b); and

(c) any interest earned on those amounts;

"compliant United Kingdom supplier" means a United Kingdom supplier which, at the end of the late payment period, has discharged or is treated as if it had discharged in full every UK renewables obligation imposed on it in respect of the relevant period;

"GBRO costs" means the costs which have been or are expected to be incurred by the Authority in connection with the performance of any of its functions conferred by or under sections 32 to 32M of the Act during the settlement period;

"instalment payment" is to be construed in accordance with article 49(5);

"late payment fund" is the fund held by the Authority on the 1st November of the settlement period, being the aggregate of–

(a) amounts received by the Authority during that period under article 44 (those amounts relating to the renewables obligation in the relevant period); and

(b) any interest earned on those amounts;

"late payment period" means the period beginning on the 1st September and concluding on the 31st October in the settlement period;

"mutualisation fund" means the aggregate at any given time of the amounts (excluding any amounts repaid under article 51(2)) received by the Authority under articles 49 and 51 (together with any interest earned on those amounts) in relation to the relevant period;

"mutualisation period" means the obligation period immediately following the settlement period;

"NIRO costs" means the costs which have been or are expected to be incurred by the Northern Ireland authority in connection with the performance of any of its functions conferred by or under Articles 52 to 55F of the Northern Ireland Energy Order during a period which, in any order made under those Articles, corresponds to the settlement period;

"non-compliant United Kingdom supplier" means a United Kingdom supplier which, at the end of the late payment period, has not discharged or is not treated as if it had discharged in full every UK renewables obligation imposed on it in respect of the relevant period;

"recalculated supplier payment" is to be construed in accordance with article 50(5);

"the relevant period" is to be construed in accordance with article 43(1);

"relevant shortfall" is to be construed in accordance with article 48(3);

"relevant supplier" means an electricity supplier which was a designated electricity supplier in the relevant period and which at the end of the late payment period had discharged or is treated as if it had discharged the whole or part of its renewables obligation for the relevant period;

"renewables obligation order" is to be construed in accordance with section 32(4) of the Act;

"shortfall" is to be construed in accordance with article 48(2);

"the settlement period" is to be construed in accordance with article 43(1);

"supplier payment" is to be construed in accordance with article 49(3);

"total mutualisation sum" is to be construed in accordance with article 48;

"total UK buy-out fund" means the fund existing on the 1st September of the settlement period, being the aggregate of–

(a) the buy-out fund held on that date;

(b) any fund provided for in a renewables obligation order made by the Secretary of State which corresponds to the buy-out fund held on that date; and

(c) any fund provided for in an order made under Articles 52 to 55F of the Northern Ireland Energy Order which corresponds to the buy-out fund held on that date;

"UK renewables obligation" means–

(a) the renewables obligation imposed by article 5 of this Order;

(b) a renewables obligation imposed by a renewables obligation order made by the Secretary of State; or

(c) a renewables obligation imposed on Northern Ireland suppliers in an order made under Articles 52 to 55F of the Northern Ireland Energy Order;

"United Kingdom supplier" means–

(a) a designated electricity supplier;

(b) any electricity supplier on which a UK renewables obligation is imposed under a renewables obligation order made by the Secretary of State; and

(c) any designated electricity supplier within the meaning of Article 52(2) of the Northern Ireland Energy Order.

(2) In this Part, references to the late payment period, the mutualisation period, the relevant period and the settlement period, when used in the context of a United Kingdom supplier subject to a UK renewables obligation, are to be construed (where the United Kingdom supplier is not a designated electricity supplier)–

(a) in the case of an electricity supplier on which a UK renewables obligation is imposed under a renewables obligation order made by the Secretary of State, as references to the period which corresponds to the late payment, mutualisation, relevant or (as the case may be) settlement period in that order;

(b) in the case of an electricity supplier on which a UK renewables obligation is imposed under an order made under Articles 52 to 55F of the Northern Ireland Energy Order, as references to the period which corresponds to the late payment, mutualisation, relevant or (as the case may be) settlement period in the order under which that UK renewables obligation is imposed.

(3) Any sum payable by suppliers under articles 43(1), 44, 49 or 51(1) is to be rounded to the nearest penny, with any half of a penny being rounded upwards.

Payments to discharge the renewables obligation

43.—(1) A designated electricity supplier may (in whole or in part) discharge its renewables obligation for an obligation period ("the relevant period") by making a payment to the Authority before the 1st September in the following obligation period ("the settlement period").

(2) The payment referred to in paragraph (1) is an amount equal to £X × (Y − Z) where–

(a) X is the sum which corresponds to a renewables obligation certificate by virtue of paragraph (4);

(b) Y is the number of renewables obligation certificates that the designated electricity supplier, if it makes no payment under paragraph (1), would have to produce to the Authority in order for it to discharge its renewables obligation for the relevant period in full; and

(c) Z is the number of renewables obligation certificates that it has actually produced to the Authority for that period (or, where it has not produced any at all, zero).

(3) Where a designated electricity supplier makes a payment to the Authority which is less than the amount calculated under paragraph (2), its renewables obligation for the relevant period will be discharged by that payment to the extent of the appropriate number of renewables obligation certificates, which is the quotient obtained by dividing the payment made by the sum which corresponds to a renewables obligation certificate by virtue of paragraph (4).

(4) The sum which corresponds to a renewables obligation certificate ("the buy-out price") is–

(a) for the relevant period commencing on 1st April 2009, £37.19; and

(b) for each obligation period thereafter, the buy-out price for the previous obligation period increased or, as the case may be, decreased by the percentage increase or decrease in the retail prices index over the 12 month period ending on the 31st December in the previous obligation period (the resulting figure being rounded to the nearest penny, with any half of a penny being rounded upwards).

Late payments to discharge the renewables obligation

44.—(1) Where a designated electricity supplier fails (in whole or in part) to discharge its renewables obligation for the relevant period before the 1st September in the settlement period, the Authority must notify it of the extent of its default as soon as is reasonably practicable on or after that date.

(2) The extent of the designated electricity supplier's default is an amount equal to the amount calculated under article 43(2) less any amount that the designated electricity supplier has actually paid to the Authority under article 43.

(3) Interest is payable on that amount (or, where all or part of it is paid to the Authority before the end of the late payment period, such part of that amount as remains unpaid) during the late payment period.

(4) That interest is to be calculated on a daily basis at 5 percentage points above the base rate charged by the Bank of England on the first day of the late payment period.

(5) Any payment made by a designated electricity supplier towards discharging its default under paragraph (2) will be applied first to any interest that is payable under paragraph (3).

(6) If, by the end of the late payment period, the designated electricity supplier has paid to the Authority under this article the amount referred to in paragraph (2) and all interest required to be paid on that amount under paragraph (3), it will be treated as having discharged its renewables obligation for the relevant period.

(7) The Authority must not, during the late payment period, impose a penalty under section 27A(1) of the Act(**a**) on any supplier in respect of that supplier's failure to discharge its renewables obligation in full before the 1st September in the settlement period.

Dealing with the buy-out fund: payments into the Consolidated Fund and to the Northern Ireland authority

45.—(1) Subject to paragraph (2), before the 1st November in the settlement period the Authority must pay–

(a) into the Consolidated Fund the proportion of the buy-out fund which is equal to the proportion which the GBRO costs bear to the total UK buy-out fund; and

(b) to the Northern Ireland authority the proportion of the buy-out fund which is equal to the proportion which the NIRO costs bear to the total UK buy-out fund.

(2) Where the aggregate of the amounts to be paid by the Authority under paragraph (1) would exceed the buy-out fund, before the 1st November of the settlement period the Authority must pay the buy-out fund into the Consolidated Fund and to the Northern Ireland authority in the same ratio as the GBRO costs bear to the NIRO costs.

(3) Where any amount to be paid under paragraph (1) or (2) is not a whole number when expressed in terms of pounds sterling, it is to be rounded down to the nearest pound sterling.

(4) Where the buy-out fund exceeds the aggregate of the amounts to be paid by the Authority under paragraph (1), the Authority must pay the balance of the buy-out fund to United Kingdom suppliers under and in accordance with article 47 by the 1st November in the settlement period.

Dealing with the late payment fund: payments into the Consolidated Fund and to the Northern Ireland authority

46.—(1) Subject to paragraph (2), where the buy-out fund has been paid into the Consolidated Fund and to the Northern Ireland authority under article 45(2), before the 1st January in the settlement period the Authority must pay from the late payment fund–

(a) into the Consolidated Fund an amount which is equal to the difference between the amount that was paid into the Consolidated Fund under article 45(2) and the amount that would have been paid into it under article 45(1) had the aggregate of the amounts to be paid by the Authority under article 45(1) not exceeded the buy-out fund; and

(b) to the Northern Ireland authority an amount which is equal to the difference between the amount that was paid to it under article 45(2) and the amount that would have been paid to it under article 45(1) had the aggregate of the amounts to be paid by the Authority under article 45(1) not exceeded the buy-out fund.

(**a**) Section 27A of the Act was inserted by section 59(1) of the Utilities Act 2000 (c.27).

(2) Where the aggregate of the amounts to be paid by the Authority under paragraph (1) would exceed the late payment fund, before the 1st January of the settlement period the Authority must pay the late payment fund into the Consolidated Fund and to the Northern Ireland authority in the same ratio as the GBRO costs bear to the NIRO costs.

(3) Where any amount to be paid under paragraph (1) or (2) is not a whole number when expressed in terms of pounds sterling, it is to be rounded down to the nearest pound sterling.

(4) Where, after any payments required to be made during the settlement period under paragraph (1) or (2) have been made, the Authority–

(a) holds more than £50,000 in the late payment fund, the Authority must pay the late payment fund to United Kingdom suppliers under and in accordance with article 47 by the 1st January in the settlement period;

(b) holds £50,000 or less in the late payment fund, the Authority must retain that money, which is to constitute part of the buy-out fund held in the obligation period immediately following the settlement period.

Dealing with the buy-out and late payment funds: payments to United Kingdom suppliers

47.—(1) Each United Kingdom supplier must be paid a proportion of the amount (if any) that the Authority is required to pay to United Kingdom suppliers by virtue of article 45(4) or 46(4)(a) by the dates in the settlement period specified in those articles.

(2) The proportion referred to in paragraph (1) is A ÷ B where–

(a) A is the number of renewables obligation certificates presented by the United Kingdom supplier to the Authority or Northern Ireland authority in order to discharge (in whole or in part) any UK renewables obligation to which it was subject in the relevant period; and

(b) B is the total number of renewables obligation certificates presented by United Kingdom suppliers to the Authority and the Northern Ireland authority in order to discharge (in whole or in part) any UK renewables obligations to which they were subject in that period.

(3) Where any amount to be paid under this article is not a whole number when expressed in terms of pounds sterling, it is to be rounded down to the nearest pound sterling.

(4) Where by virtue of the operation of paragraph (3) the Authority continues to hold any sum which otherwise would have been paid out under this article that sum is to be retained by the Authority and is to constitute part of the buy-out fund held in the obligation period immediately following the settlement period.

Shortfall in the buy-out and late payment funds: the total mutualisation sum

48.—(1) As soon as reasonably practicable after the 31st October in the settlement period, the Authority must–

(a) determine whether a shortfall (within the meaning of paragraph (2)) has occurred; and

(b) where such a shortfall has occurred and is a relevant shortfall (within the meaning of paragraph (3)), calculate the total sum to be recovered from relevant suppliers ("the total mutualisation sum").

(2) A shortfall occurs in relation to the relevant period where the amount referred to in sub-paragraph (a) is less than the amount referred to in sub-paragraph (b) and is the difference between the two–

(a) the amount referred to in this sub-paragraph is the sum of–

(i) the amount held in the buy-out fund on 1st September in the settlement period; and

(ii) the amount held in the late payment fund on 31st October in that period (excluding from that amount any interest paid pursuant to article 44(3));

(b) the amount referred to in this sub-paragraph is what the amount referred to in sub-paragraph (a) would have been if, on 31st October in the settlement period, each

designated electricity supplier which, at the end of the late payment period, has not (and is not treated as having) discharged its renewables obligation in full were to pay to the Authority the amount notified to it by the Authority under article 44(1).

(3) A shortfall is a relevant shortfall if–

(a) the relevant period in relation to which it has occurred is identified in the first column of Schedule 3; and

(b) it is equal to, or in excess of, the amount which corresponds to that period in the second column of that Schedule.

(4) Subject to paragraphs (5) to (7), where a relevant shortfall has occurred in relation to the relevant period, the total mutualisation sum for that period is the amount of that shortfall.

(5) Where any non-compliant United Kingdom supplier has produced renewables obligation certificates to the Authority or the Northern Ireland authority in order to discharge, in part, any UK renewables obligation to which it was subject in the relevant period, the total mutualisation sum for that period is equal to $R - \left(R \times \frac{E}{F} \right)$ where–

(a) R, subject to paragraphs (6) and (7), is the amount of the shortfall;

(b) E is the number of renewables obligation certificates produced by non-compliant United Kingdom suppliers to the Authority or the Northern Ireland authority in order to discharge, in part, any UK renewables obligation to which they were subject in the relevant period; and

(c) F is the total number of renewables obligation certificates produced by United Kingdom suppliers to the Authority or to the Northern Ireland authority in order to discharge, in whole or in part, any UK renewables obligation to which they were subject in the relevant period.

(6) If the total mutualisation sum for the relevant period has to be recalculated by virtue of article 50(5), for the purposes of that recalculation (whether under paragraph (4) or (5)) the amount of the shortfall is to be reduced by the sum of all payments mentioned in article 50(1)(b) received by United Kingdom suppliers.

(7) For the purposes of calculating or recalculating the total mutualisation sum for the relevant period, the amount (if any) by which the shortfall in relation to that period exceeds the mutualisation cap for that period is to be disregarded.

(8) The mutualisation cap for the relevant period depends on which obligation period constitutes the relevant period and is–

(a) for the relevant period commencing on 1st April 2009, £22,400,000; and

(b) for each obligation period thereafter, the mutualisation cap for the previous obligation period increased or, as the case may be, decreased by the percentage increase or decrease in the retail prices index over the 12 month period ending on the 31st December in the previous obligation period (the resulting figure being rounded to the nearest penny, with any half of a penny being rounded upwards).

Payments to be made by suppliers towards the total mutualisation sum

49.—(1) Where a relevant shortfall has occurred in relation to the relevant period, as soon as reasonably practicable after the 31st October in the settlement period the Authority must notify each relevant supplier of–

(a) the amount of the shortfall;

(b) the total mutualisation sum; and

(c) the payment which that supplier is required to make under paragraph (3).

(2) Where the Authority notifies relevant suppliers under paragraph (1) it must publish a notice stating the amount of the shortfall in relation to the relevant period and the total mutualisation sum.

(3) Where a relevant shortfall has occurred in relation to the relevant period, each relevant supplier must make a payment to the Authority (a "supplier payment").

(4) The supplier payment for each relevant supplier is equal to $T \times \frac{C}{D}$ where–

(a) T is the total mutualisation sum;

(b) C is the number of renewables obligation certificates that the supplier, if it had made no payments under article 43 or 44, would have had to produce to the Authority in order for it to have discharged its renewables obligation for the relevant period in full;

(c) D is the total number of renewables obligation certificates that all relevant suppliers, if none of them had made payments under articles 43 or 44 would have had to produce in order for each of them to discharge their renewables obligation for the relevant period in full.

(5) Subject to article 50 each relevant supplier must make its supplier payment in the following instalments ("instalment payments")–

(a) 25 per cent of the supplier payment required must be paid to the Authority before 1st September in the mutualisation period;

(b) 25 per cent of the supplier payment must be paid to the Authority before 1st December in that period;

(c) 25 per cent of the supplier payment must be paid to the Authority before 1st March in that period; and

(d) 25 per cent of the supplier payment must be paid to the Authority before 1st June immediately following that period.

(6) Where a person required to make a supplier payment–

(a) fails to make payment in full; and

(b) at any time during or after the end of the relevant period ceases to hold a licence to supply electricity under section 6(1) of the Act(**a**),

sections 25 to 28 of the Act are to apply in respect of that person in respect of the obligations imposed by this article, as if that person still held a licence to supply electricity.

Circumstances in which payments towards the total mutualisation sum are to be re-calculated

50.—(1) This article and article 51 apply where–

(a) a relevant shortfall has occurred in relation to the relevant period; and

(b) a designated electricity supplier which failed to discharge its renewables obligation for the relevant period makes a payment to other United Kingdom suppliers which, if it had been made to the Authority under article 43 or 44, would have increased the amounts that those suppliers would have received under article 47 from the buy-out and late payment funds, that payment being designed to compensate those suppliers for that loss.

(2) A designated electricity supplier which makes a payment mentioned in paragraph (1)(b) must, immediately after making the payment, notify the Authority–

(a) of the United Kingdom suppliers to which the payment was made;

(b) how much each United Kingdom supplier received; and

(c) to which obligation period the payment relates.

(3) Any designated electricity supplier which receives a payment mentioned in paragraph (1)(b) must notify the Authority, immediately after receiving the payment, of the amount it received.

(4) Where a designated electricity supplier receives a payment from an electricity supplier supplying electricity in England and Wales in relation to the electricity supplier's failure to

(**a**) Section 6 of the Act was substituted by section 30 of the Utilities Act 2000 (c.27).

discharge in full any UK renewables obligation imposed on it by a renewables obligation order made by the Secretary of State, the designated electricity supplier must notify the Authority, immediately after receiving the payment, of the amount it received.

(5) Where, before 1st August in the obligation period immediately following the mutualisation period, the Authority receives a notification under paragraph (2) or (3), relevant suppliers shall cease to be required to make instalment payments in respect of dates specified in article 49(5) which have not yet passed and the Authority must, as soon as is reasonably practicable–

(a) recalculate the total mutualisation sum (in relation to the relevant period);

(b) recalculate the supplier payment (in relation to the relevant period) which each relevant supplier is required to make (to take account of the recalculated total mutualisation sum);

(c) calculate, in accordance with article 51, the payments (if any) suppliers are required to make under that article;

(d) notify each relevant supplier of–

(i) the recalculated total mutualisation sum;

(ii) its recalculated supplier payment; and

(iii) the payments (if any) the supplier is required to make under article 51; and

(e) publish a notice stating the amount of the shortfall in relation to the relevant period and the total mutualisation sum as recalculated.

Re-calculated payments to be made by suppliers towards the total mutualisation sum and repayments by the Authority

51.—(1) Where the sum of instalment payments already made by a relevant supplier is less than its recalculated supplier payment, the supplier must pay the difference between the two ("the outstanding amount")–

(a) where the only date mentioned in article 49(5) which has not yet passed is the final one, on that date;

(b) where two or more of the dates mentioned in article 49(5) have not yet passed, in instalments on those dates (each instalment being equal to the outstanding amount divided by the number of dates which have not yet passed).

(2) Where the sum of instalment payments already made by a relevant supplier is more than the supplier's recalculated supplier payment and the Authority has received instalment payments, but has not yet paid out the mutualisation fund under article 52, the Authority must repay to the supplier from the mutualisation fund the difference between the amount that the supplier has paid (together with any interest earned on that amount) and the supplier's recalculated supplier payment.

(3) Where the Authority is required to repay sums to relevant suppliers in accordance with paragraph (2) and the mutualisation fund is insufficient to enable the Authority to repay each relevant supplier in full, the Authority must pay each relevant supplier an amount equal to $G - \left(G \times \frac{(J - H)}{J} \right)$ where–

(a) G is the amount which the supplier would have received under paragraph (2) had the amount in the mutualisation fund been sufficient to enable the Authority to repay each relevant supplier in full;

(b) H is the amount in the mutualisation fund; and

(c) J is the sum of all payments that relevant suppliers would have received under paragraph (2) had the amount in the mutualisation fund been sufficient to enable the Authority to repay each relevant supplier in full.

(4) Where any amount to be paid under paragraph (2) or (3) is not a whole number when expressed in terms of pounds sterling, it is to be rounded down to the nearest pound sterling.

(5) Where by virtue of the operation of paragraph (4) the Authority continues to hold any sum which otherwise would have been paid out under this article that sum is to be retained by the Authority and is to constitute part of the buy-out fund held in the obligation period immediately following the mutualisation period.

Payments to be made to suppliers out of the mutualisation fund

52.—(1) The Authority must pay out the mutualisation fund to compliant United Kingdom suppliers in accordance with paragraphs (2) to (6).

(2) When there is money in it, the mutualisation fund is to be paid out by–

(a) 1st November in the mutualisation period;

(b) 1st February in that period;

(c) 1st May immediately following that period; and

(d) 1st August immediately following that period.

(3) On each occasion the mutualisation fund is paid out, each compliant United Kingdom supplier must be paid a proportion of the mutualisation fund.

(4) The proportion referred to in paragraph (3) is A ÷ B where–

(a) A is the number of renewables obligation certificates presented by the compliant United Kingdom supplier to the Authority or Northern Ireland authority in order to discharge (in whole or in part) any UK renewables obligation to which it was subject in the relevant period; and

(b) B is the total number of renewables obligation certificates presented by all compliant United Kingdom suppliers to the Authority or Northern Ireland authority in order to discharge (in whole or in part) any UK renewables obligation to which they were subject in that period.

(5) Where any amount to be paid under this article is not a whole number when expressed in terms of pounds sterling, it is to be rounded down to the nearest pound sterling.

(6) Where following the making of a payment to compliant United Kingdom suppliers the Authority continues, by virtue of the operation of paragraph (5), to hold any sum which otherwise would have been paid out under this article–

(a) the Authority must pay out that sum along with the next payment to be made under this article in respect of the relevant period; or

(b) where there are no further payments to be made under this article in respect of the relevant period that sum is to be retained by the Authority and is to constitute part of the buy-out fund held in the obligation period immediately following the mutualisation period.

PART 9

Provision of information, functions of the Authority and modification of this Order in relation to microgenerators in certain circumstances

Provision of information to the Authority

53.—(1) The Authority may, by the date (if any) specified by it, require–

(a) a designated electricity supplier to provide it with information which in its opinion is relevant to the question whether the supplier is discharging, or has discharged, its renewables obligation;

(b) a person to provide it with information which in its opinion is relevant to the question whether a SROC is, or was or will in future be, required to be issued to the person.

(2) Without prejudice to paragraph (1), the Authority may, by the date (if any) specified by it, require any person who–

(a) is the operator of a generating station generating electricity in respect of which a SROC has been or may be issued;

(b) supplies, distributes or transmits such electricity; or

(c) buys or sells (as a trader) such electricity or SROCs,

to provide it with such information as in its opinion it requires in order to carry out any of its functions under this Order.

(3) Without prejudice to paragraphs (1) and (2), for the purposes of determining the renewable output of a generating station in a month ("the relevant month") the operator of the station must provide the Authority with figures showing–

(a) the amount of input electricity used by the station in the relevant month; and

(b) the gross output of the station in that month,

by the end of the second month following the relevant month (and those figures may be estimated if the Authority has agreed to estimates being provided and to the way in which those estimates are to be calculated).

(4) Nothing in paragraph (3) prevents the Authority from accepting figures, or further figures, provided after the end of the second month following the relevant month if the Authority considers it appropriate to do so.

(5) Without prejudice to paragraphs (1) and (2), each designated electricity supplier must provide the Authority with–

(a) estimates of the amount of electricity it has supplied to customers in Scotland during each month of an obligation period by no later than 1st June following that period;

(b) figures showing the amount of electricity it has actually supplied to customers in Scotland during each month of an obligation period by no later than 1st July following that period; and

(c) an estimate of the number of renewables obligation certificates it believes it would be required to produce to the Authority in order to discharge its renewables obligation for an obligation period if it did not discharge its renewables obligation for that period (in whole or in part) by some other means by no later than 1st July following that period.

(6) When giving the information referred to in paragraph (5)(a) and (b), a designated electricity supplier must have regard to any sales figures, relating to the electricity in respect of which it is giving that information, which it has provided (or intends to provide) to the Department of Energy and Climate Change for publication in "Energy Trends"(**a**).

(7) Without prejudice to paragraphs (1) and (2), for the purposes of determining whether a SROC certifying the matters within section 32B(5), (6) or (8) of the Act should be issued, the person to whom any such SROC would be issued must provide the Authority with–

(a) a figure representing the amount of electricity in respect of which SROCs should (in that person's opinion) be issued; and

(b) the data on which that person relied upon in arriving at that figure.

(8) Information requested under or required to be provided by this article must be given to the Authority in whatever form it requires.

(9) In this article "input electricity" and "gross output", in relation to a generating station, have the same meaning as they have in articles 24 and 25 (calculating a generating station's renewable output).

Information to be provided to the Authority where electricity is generated from biomass

54.—(1) This article applies to a generating station–

(**a**) Available at www.dti.gov.uk/energy/inform/energy_trends/index.shtml.

(a) which generates electricity (wholly or partly) from biomass; and

(b) which is not a microgenerator.

(2) In relation to each consignment of biomass used in a generating station to which this article applies, the operator of the station must, by the 31st May immediately following the obligation period during which the biomass is used ("the relevant date"), provide the Authority with the information specified in paragraph (3).

(3) The information specified in this paragraph is information identifying, to the best of the operator's knowledge and belief–

(a) the material from which the biomass was composed (for example, whether it was composed of wood);

(b) where the biomass can take different forms (for example, wood can take a variety of forms, depending on whether and how it has been processed and what it is, is to be or has been used for), the form of the biomass;

(c) where the biomass was solid, its mass;

(d) where the biomass was fluid, its volume when measured at 25 degrees Celsius and 0.1 megapascals;

(e) whether the biomass was a by-product of a process;

(f) whether the biomass was waste;

(g) where the biomass was plant matter or derived from plant matter, the country where the plant matter was grown;

(h) where the information specified in sub-paragraph (g) is not known or the biomass was not plant matter or derived from plant matter, the country from which the operator obtained the biomass;

(i) whether any of the consignment was an energy crop or derived from an energy crop and, if so–

(i) the proportion of the consignment which was or was derived from the energy crop, and

(ii) the type of energy crop in question;

(j) whether the biomass or any matter from which it was derived was certified under an environmental quality assurance scheme and, if so, the name of the scheme; and

(k) where the biomass was plant matter or derived from plant matter, the use to which the land on which the plant matter was grown has been put since 30th November 2005.

(4) Where, in relation to biomass used in a generating station to which this article applies, the operator of the station fails to provide the Authority with the information specified in paragraph (3) by the relevant date, the Authority–

(a) may in relation to any SROCs to which the operator would otherwise be entitled, postpone (subject to sub-paragraph (b)) the issue of those SROCs (up to the specified number) until such time as the information is provided; and

(b) must in relation to any such SROCs refuse the issue of those SROCs (up to the specified number) if that information is not provided by the 31st August immediately following the relevant date.

(5) For the purposes of paragraph (4), the specified number is the number of SROCs which the Authority has or estimates that it has or, but for this article, would have issued in respect of the electricity generated by the biomass in relation to which the information specified in paragraph (3) should have been provided.

(6) In this article, "environmental quality assurance scheme" means a voluntary scheme which establishes environmental or social standards in relation to the production of biomass or matter from which a biomass fuel is derived.

Provision of information to the Secretary of State

55. Any information provided to the Authority under article 53(5) must be provided to the Secretary of State at the same time.

Exchange of information with the Northern Ireland authority

56.—(1) The Authority must, as soon as reasonably practicable after the specified day following an obligation period, notify the Northern Ireland authority of–

(a) the details of each Northern Ireland certificate produced to the Authority by a designated electricity supplier in discharge of that supplier's renewables obligation for that period and the name of the designated electricity supplier in question; and

(b) the total number of Northern Ireland certificates produced to the Authority in respect of that obligation period.

(2) The Authority must, as soon as reasonably practicable after receiving a notification from the Northern Ireland authority as to the SROC identifiers of SROCs produced to the Northern Ireland authority by Northern Ireland suppliers under any NIRO Order, inform the Northern Ireland authority of–

(a) the SROC identifier of any SROC so notified which the Authority has revoked under article 41 and whether it has issued a replacement SROC in respect of any such SROC (unless that replacement SROC has itself been revoked);

(b) the SROC identifier of any SROC so notified that has been produced to the Authority by a designated electricity supplier under article 5(2) and the date on which it was produced.

(3) The Authority must, as soon as reasonably practicable after the specified day following an obligation period, notify the Northern Ireland authority of the number of renewables obligation certificates produced to the Authority in respect of that period.

Functions of the Authority

57.—(1) In addition to the functions assigned to it elsewhere in this Order, the Authority shall have the following specific functions–

(a) keeping, maintaining and making available to the public a list of generating stations granted preliminary accreditation and accreditation in accordance with article 58, together with any applicable conditions attached to the preliminary accreditation or accreditation;

(b) keeping and maintaining a list of SROCs which have been revoked and making such list available to the public;

(c) calculating and publishing before the start of each obligation period (with the exception of the first obligation period to which this Order relates) the sum which corresponds to a SROC for that period by virtue of article 43(4);

(d) calculating and publishing before the start of each obligation period (with the exception of the first obligation period to which this Order relates) the amount which is the mutualisation cap for that period by virtue of article 48(8);

(e) publishing from time to time during an obligation period the total SROC claim for that period;

(f) by the 1st April each year publishing a report in relation to the obligation period ending on the 31st March in the previous calendar year ("the relevant period"), such report to include details (or, in the case of paragraph (ix), a summary) of–

(i) the compliance of each designated electricity supplier with its renewables obligation, for the relevant period, including the extent to which that obligation was met by–

(aa) the production of renewables obligation certificates under article 5(2);

(bb) payments made under article 43; or

(cc) was treated as met by payments made under article 44;

(ii) the sums received by each United Kingdom supplier under article 47 in relation to the relevant period;

(iii) the number of SROCs issued by the Authority, the number of renewables obligation certificates accepted by it under article 5(2), and the number of SROCs issued by it but not yet deleted from the Register in relation to the relevant period;

(iv) the number of SROCs issued by the Authority in relation to the relevant period categorized by reference to the way in which the electricity in respect of which the SROCs were issued was generated;

(v) any notices published by the Authority under article 49(2) or article 50(5)(e) in relation to the relevant period;

(vi) any payments made to the Authority in accordance with article 49(5), during or in relation to the relevant period;

(vii) the sums received by each compliant United Kingdom supplier under article 52, during or in relation to the relevant period;

(viii) any recalculations carried out by the Authority in accordance with article 50(5), during or in relation to the relevant period;

(ix) the outcome of any enquiries or investigations conducted by the Authority pursuant to sub-paragraph (g) in relation to the relevant period; and

(x) any other matters which the Authority considers relevant in relation to the relevant period;

(g) monitoring compliance with this Order by designated electricity suppliers and operators of generating stations (including compliance by operators of generating stations with any conditions attached to their accreditation) and such monitoring may include conducting enquiries or investigations into–

(i) the amount of electricity generated from renewable sources by accredited generating stations;

(ii) the amount of such electricity supplied to customers in Great Britain;

(iii) the transfer and holding of SROCs (including the transfer and holding of SROCs issued to agents by virtue of article 35);

(iv) the effect of such matters on the making and allocation of payments under articles 43, 44, 47, 49, 51 and 52; and

(v) the effect of the renewables obligation on the activities and operations of designated electricity suppliers and operators of generating stations;

(h) publishing at its discretion reports of enquiries or investigations conducted by the Authority pursuant to sub-paragraph (g); and

(i) the provision of such information to the Northern Ireland authority as the Authority considers may be relevant to the exercise of the Northern Ireland authority's functions under any NIRO Order.

(2) In this article "total SROC claim" means the total number of SROCs which have been claimed in respect of an obligation period, less–

(a) the number of SROCs which have been issued in respect of that obligation period; and

(b) the number of SROCs which the Authority has, in respect of that obligation period, decided not to issue or refused to issue under article 41 or 54(4).

Preliminary accreditation and accreditation of generating stations

58.—(1) Paragraphs (2) to (10) apply to the granting and withdrawing of preliminary accreditation and accreditation of generating stations by the Authority, and paragraphs (3) to (5) are subject to paragraph (2).

(2) The Authority must not grant accreditation or preliminary accreditation to a generating station under this article–

(a) if it cannot issue SROCs in respect of electricity generated by that station by virtue of article 17 (excluded generating stations); or

(b) if, in its opinion, the station is unlikely to generate electricity in respect of which SROCs may be issued.

(3) Where a generating station in respect of which–

(a) consent under section 36 of the Act or where appropriate, Article 39 of the Electricity (Northern Ireland) Order 1992 has been obtained; or

(b) planning permission under the Town and Country Planning (Scotland) Act 1997(**a**) has been granted,

is not yet commissioned, the Authority may, upon the application of the person who proposes to construct or operate the generating station, grant the station preliminary accreditation.

(4) Where a generating station has been commissioned, the Authority may, upon the application of its operator (or, where SROCs relating to electricity generated by that station are to be issued to an agent by virtue of article 35, that agent), grant the station accreditation.

(5) Where a station has been granted preliminary accreditation (and such preliminary accreditation has not been withdrawn) and an application for its accreditation is made under paragraph (4), the Authority must not grant that application if it is satisfied that–

(a) there has been a material change in circumstances since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused;

(b) the information on which the decision to grant the preliminary accreditation was based was incorrect in a material particular such that, had the Authority known the true position when the application for preliminary accreditation was made, it would have refused it; or

(c) there has been a change in applicable legislation since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused,

but otherwise the Authority must grant the application.

(6) The Authority may, in granting preliminary accreditation or accreditation under this article, attach such conditions as appear to it to be appropriate.

(7) Where any of the circumstances mentioned in paragraph (8) apply in relation to a preliminary accreditation or an accreditation which the Authority has granted (whether or not under this article), and having regard to those circumstances the Authority considers it appropriate to do so, the Authority may–

(a) withdraw the preliminary accreditation or accreditation in question;

(b) amend conditions attached to the preliminary accreditation or accreditation;

(c) attach conditions to the preliminary accreditation or accreditation.

(8) The circumstances referred to in paragraph (7) are as follows–

(a) in the Authority's view there has been a material change in circumstances since the preliminary accreditation or accreditation was granted;

(b) any condition attached to the preliminary accreditation or accreditation has not been complied with;

(c) the Authority has reason to believe that the information on which the decision to grant the preliminary accreditation or accreditation was based was incorrect in a material particular; or

(**a**) 1997 (c.8).

(d) there has been a change in applicable legislation since the preliminary accreditation or accreditation was granted such that, had the application for preliminary accreditation or accreditation been made after the change, it would not have been granted.

(9) The Authority must notify the applicant in writing of–

(a) its decision on an application for preliminary accreditation or accreditation of a generating station;

(b) any conditions attached to the preliminary accreditation or accreditation; and

(c) any withdrawal of preliminary accreditation or accreditation.

(10) In providing written notification under paragraph (9), the Authority must specify the date on which the grant or withdrawal of preliminary accreditation or accreditation is to take effect and, where applicable, the date on which any conditions attached to the preliminary accreditation or accreditation are to take effect.

(11) In paragraph (3), the reference to the person who proposes to construct the generating station includes a person who arranges for the construction of the generating station.

SROC Register

59.—(1) The Authority must establish and maintain a register of SROCs ("the Register") in accordance with Schedule 4, which shall have effect.

(2) A SROC is issued for the purpose of this Order at the point at which its particulars (within the meaning of Schedule 4) are entered in the Register by the Authority.

(3) Without prejudice to the foregoing provisions of this article and Schedule 4, the Authority must ensure that the Register contains, by way of entries made in it–

(a) an accurate record of the particulars of each SROC which is issued by the Authority (including the person who is for the time being its registered holder) and which remains eligible to be produced to the Authority; and

(b) a list of the names of all persons who either are the registered holder of a SROC or, although not at that time the registered holder of a SROC, have notified the Authority that they wish an entry to be made and maintained in respect of them as prospective registered holders of SROCs.

(4) Only the registered holder of a SROC may produce that SROC to the Authority under article 5.

Modification of this Order in relation to microgenerators in certain circumstances

60.—(1) This article applies to generating stations which are microgenerators.

(2) The operator of a generating station to which this article applies or, where SROCs relating to generating stations to which this article applies are to be issued to an agent by virtue of article 35, that agent (and not the operators of the generating stations in question) may–

(a) where SROCs have not yet been issued in respect of any electricity generated during the course of an obligation period by the station or stations in question, during the course of that obligation period; or

(b) in any other case, not less than one month before the beginning of an obligation period ("the relevant obligation period"),

give notice in writing to the Authority that entitlement to SROCs in respect of electricity generated by the station or stations in question is to be determined on the basis set out in the remainder of this article.

(3) Paragraph (4) applies–

(a) where an operator or, as the case may be, agent has given notice as specified in paragraph (2)(a), for the remainder of the obligation period during which the notice was given and subsequent obligation periods; and

(b) where an operator or, as the case may be, agent has given notice as specified in paragraph (2)(b), for the relevant obligation period and subsequent obligation periods.

(4) Where this paragraph applies, the reference to "a month" in each place where it occurs in articles 13, 22, 24, 25, 36, 39, 41, 53 and Schedule 4 is to be taken to be a reference to "an obligation period", subject to the following exceptions–

(a) in articles 24(2)(b) and 53(3) the reference to "the second month" is to remain unchanged;

(b) in paragraph 3(b)(i) of Schedule 4 the words "the month and year" is to be replaced by "the obligation period".

(5) An operator or, as the case may be, agent who has given notice under paragraph (2) may–

(a) if notice was given under paragraph (2)(a), not less than one month before the beginning of any obligation period following the obligation period during which the notice was given; or

(b) if notice was given under paragraph (2)(b), not less than one month before the beginning of any obligation period following the relevant obligation period,

by notice in writing to the Authority, withdraw the notice given under paragraph (2).

(6) Where an operator or, as the case may be, agent withdraws a notice given under paragraph (2), that notice ceases to have effect from the beginning of the obligation period in relation to which the notice under paragraph (5) was given.

Revocation, transitional and savings

61.—(1) Subject to paragraphs (2) to (4), the following Orders are revoked–

(a) the 2007 Order; and

(b) the Renewables Obligation (Scotland) Amendment Order 2008(**a**).

(2) The 2007 Order is to continue to apply in relation to–

(a) the issue and revocation of SROCs under it in respect of electricity generated before 1st April 2009, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to such issue or revocation;

(b) any obligations or requirements imposed by it on an electricity supplier, an operator of a generating station or some other person in respect of the obligation period ending on 31st March 2009, and anything which falls to be done or determined (whether by the supplier, the generator or some other person) in relation to any such obligations and requirements; and

(c) any obligations and functions of the Authority in respect of that obligation period, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to it.

(3) Without prejudice to the generality of the foregoing–

(a) article 35 of the 2007 Order is to continue to apply so as to enable the Authority to request information in respect of electricity generated in the obligation period ending on 31st March 2009;

(b) Schedule 1 to the 2007 Order is to continue to apply in relation to that obligation period.

(4) For the purpose of article 13(2)–

(a) SROCs issued under the 2007 Order in respect of electricity supplied in the obligation period ending on 31st March 2009; and

(**a**) S.I. 2008/132.

(b) certificates issued under the Renewables Obligation Order 2006(**a**) or the Renewables Obligation Order (Northern Ireland) 2007(**b**) in respect of electricity supplied in the period corresponding to that obligation period,

may be produced to the Authority by a designated electricity supplier in discharge of up to 25 per cent of its renewables obligation in respect of the obligation period ending on 31st March 2010.

(5) In this article, "obligation period" (except the reference to the obligation period ending on 31st March 2010 in paragraph (4)) and "SROCs" have the same meaning as in the 2007 Order.

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
2009

(**a**) S.I. 2006/1004 amended by S.I. 2007/1078.
(**b**) S.R. (N.I.) 2007 No. 104 Articles 2(1) and 16 were amended by S.R.(N.I.) 2007 No. 440.

SCHEDULE 1

Articles 7, 8, 9, 10 and 12

CALCULATION OF THE SROC OBLIGATION

Obligation period	*Number of SROCs per megawatt hour of electricity supplied in Great Britain*	*Number of SROCs per megawatt hour of electricity supplied in Northern Ireland*
1st April 2009 to 31st March 2010	0.097	0.035
1st April 2010 to 31st March 2011	0.104	0.040
1st April 2011 to 31st March 2012	0.114	0.050
1st April 2012 to 31st March 2013	0.124	0.063
1st April 2013 to 31st March 2014	0.134	0.063
1st April 2014 to 31st March 2015	0.144	0.063
1st April 2015 to 31st March 2016	0.154	0.063
Each subsequent period of twelve months ending with the period of twelve months ending on 31st March 2027	0.154	0.063

SCHEDULE 2

Articles 27, 30, 31 and 33

ELECTRICITY TO BE STATED IN SROCs

PART 1

INTERPRETATION

1.—(1) In this Schedule–

"AD" means electricity generated from gas formed by the anaerobic digestion of material which is neither sewage nor material in a landfill;

"advanced gasification" means electricity generated from a gaseous fuel which is produced from waste or biomass by means of gasification, and has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the generating station of at least 4 megajoules per metre cubed;

"advanced pyrolysis" means electricity generated from a liquid or gaseous fuel which is produced from waste or biomass by means of pyrolysis, and–

(a) in the case of a gaseous fuel, has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the generating station of at least 4 megajoules per metre cubed; and

(b) in the case of a liquid fuel, has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the generating station of at least 10 megajoules per kilogram;

"co-firing of biomass" means electricity generated from regular biomass in a month in which the generating station generates electricity partly from fossil fuel and partly from renewable sources;

"co-firing of biomass with CHP" means electricity generated from regular biomass by a qualifying combined heat and power generating station in a month in which it generates electricity partly from fossil fuel and partly from renewable sources, and where the fossil fuel and regular biomass have been burned in separate boilers or engines;

"co-firing of energy crops" means electricity generated from energy crops in a month in which the generating station generates electricity partly from fossil fuel and partly from renewable sources;

"co-firing of energy crops with CHP" means electricity generated from energy crops by a qualifying combined heat and power generating station in a month in which it generates electricity partly from fossil fuel and partly from renewable sources, and where the fossil fuel and energy crops have been burned in separate boilers or engines;

"dedicated biomass" means electricity generated from regular biomass in a month in which the generating station generates electricity only from regular biomass or only from biomass;

"dedicated energy crops" means electricity generated from energy crops in a month in which the generating station generates electricity only from energy crops or only from biomass;

"electricity generated from landfill gas" means electricity generated from gas formed by the digestion of material in a landfill;

"electricity generated from sewage gas" means electricity generated from gas formed by the anaerobic digestion of sewage (including sewage which has been treated or processed);

"energy from waste with CHP" means electricity generated from the combustion of waste (other than a fuel produced by means of anaerobic digestion, gasification or pyrolysis) in a qualifying combined heat and power generating station in a month in which the station

generates electricity only from renewable sources and those renewable sources include waste which is not biomass;

"geopressure" means electricity generated using naturally occurring subterranean pressure;

"geothermal" means electricity generated using naturally occurring subterranean heat;

"hydroelectric" means electricity generated by a hydro generating station;

"offshore wind" means electricity generated from wind by a generating station that is offshore, and a generating station is offshore if–

(a) its turbines are situated wholly in offshore waters; and

(b) it is not connected to dry land by means of a permanent structure which provides access to land above the mean low water mark;

"onshore wind" means electricity generated from wind by a generating station that is not offshore;

"solar photovoltaic" means electricity generated from the direct conversion of sunlight into electricity;

"standard gasification" means electricity generated from a gaseous fuel which is produced from waste or biomass by means of gasification, and has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the generating station which is at least 2 megajoules per metre cubed but is less than 4 megajoules per metre cubed;

"standard pyrolysis" means electricity generated from a gaseous fuel which is produced from waste or biomass by means of pyrolysis, and has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the generating station which is at least 2 megajoules per metre cubed but is less than 4 megajoules per metre cubed;

"tidal impoundment – tidal barrage" means electricity generated by a generating station driven by the release of water impounded behind a barrier using the difference in tidal levels where the barrier is connected to both banks of a river and the generating station has a declared net capacity of less than 1 gigawatt;

"tidal impoundment – tidal lagoon" means electricity generated by a generating station driven by the release of water impounded behind a barrier using the difference in tidal levels where the barrier is not a tidal barrage and the generating station has a declared net capacity of less than 1 gigawatt;

"tidal stream" means electricity generated from the capture of the energy created from the motion of naturally occurring tidal currents in water; and

"wave" means electricity generated from the capture of the energy created from the motion of naturally occurring waves on water.

(2) For the purposes of this Schedule–

(a) fossil fuel does not include waste which is a renewable source; and

(b) in determining how electricity has been generated, no account is to be taken of any fossil fuel or waste which a generating station uses for permitted ancillary purposes.

PART 2

AMOUNT OF ELECTRICITY TO BE STATED IN SROCs GENERALLY

Generation type	*Amount of electricity to be stated in a renewables obligation certificate*
Electricity generated from landfill gas	4 megawatt hours
Electricity generated from sewage gas Co-firing of biomass	2 megawatt hours
Onshore wind Hydro-electric	1 megawatt hour

Generation type	*Amount of electricity to be stated in a renewables obligation certificate*
Co-firing of energy crops Energy from waste with CHP Geopressure Co-firing of biomass with CHP Standard gasification Standard pyrolysis	
Offshore wind Dedicated biomass Co-firing of energy crops with CHP	⅔ megawatt hour
Wave Tidal-stream Advanced gasification Advanced pyrolysis AD Dedicated energy crops Dedicated biomass with CHP Dedicated energy crops with CHP Solar photovoltaic Geothermal Tidal impoundment – tidal barrage Tidal impoundment – tidal lagoon	½ megawatt hour

PART 3

AMOUNT OF ELECTRICITY TO BE STATED IN RENEWABLES OBLIGATION CERTIFICATES WHERE ARTICLE 30(3) APPLIES

Generation type	*Amount of electricity to be stated in a renewables obligation certificate*
Electricity generated from landfill gas Electricity generated from sewage gas Offshore wind Wave Solar photovoltaic	1 megawatt hour

PART 4

AMOUNT OF ELECTRICITY TO BE STATED IN RENEWABLES OBLIGATION CERTIFICATES WHERE ARTICLE 30(5) OR ARTICLE 31(4) APPLIES

Generation type	*Amount of electricity to be stated in a renewables obligation certificate*
Electricity generated from landfill gas Electricity generated from sewage gas	1 megawatt hour

SCHEDULE 3

Article 48(3)

AMOUNT OF RELEVANT SHORTFALL FOR THE RELEVANT OBLIGATION PERIOD

Obligation period	*Amount*
1st April 2008 to 31st March 2009	£910,000
1st April 2009 to 31st March 2010	£970,000
1st April 2010 to 31st March 2011	£1,040,000
1st April 2011 to 31st March 2012	£1,140,000
1st April 2012 to 31st March 2013	£1,240,000
1st April 2013 to 31st March 2014	£1,340,000
1st April 2014 to 31st March 2015	£1,440,000
1st April 2015 to 31st March 2016	£1,540,000
Each subsequent period of twelve months ending with the period of twelve months ending on 31st March 2027	£1,540,000

SCHEDULE 4

Article 59

THE REGISTER

1. The Authority must establish and maintain the Register referred to in article 59 (which may be in electronic form) at one or more of its premises.

2. The Register must identify whether or not a SROC subsists and details of its particulars.

3. Particulars of a SROC comprise–

(a) the name of the person to whom the Authority issues the SROC or, where the Authority has amended the Register in dealing with a request for substitution in accordance with paragraph 7, the name of the substitute ("the registered holder"); and

(b) an identifier unique to the SROC ("the SROC identifier") determined by the Authority and containing the following information (or reference to that information in coded format)–

(i) the month and year during which the electricity was generated;

(ii) the location of the generating station or, where the SROC certifies the matters within section 32B(5), (6) or (8) of the Act, the location of the agent to whom, by virtue of article 35, the SROC was issued;

(iii) a description of that generating station or, where the SROC certifies the matters within section 32B(5), (6) or (8) of the Act, the generating stations to which the SROC relates, including reference to the renewable source or sources used by it or them to generate electricity;

(iv) the date of issue of the SROC; and

(v) the number given to the SROC by the Authority.

4. A person may only be the registered holder of a SROC or have an entry made and maintained in respect of them under article 59(3)(b) if they provide to the Authority in writing–

(a) evidence of their identity; and

(b) where persons are authorised to act on their behalf in respect of the production of SROCs under article 5(2) or in respect of requests for amendments to be made to the Register as provided for in this Schedule, details of those persons.

5. The Authority may from time to time draw up procedural guidelines for itself and others to assist it in maintaining the Register and carrying out its functions in respect thereof.

6. The Authority must delete from the Register any SROC which–

(a) has been revoked by it;

(b) has been produced to it under article 5(2);

(c) is no longer eligible to be produced to it under article 5(2);

(d) it is asked to delete from the Register by the registered holder of the SROC; or

(e) has been (according to the Northern Ireland authority) produced to the Northern Ireland authority by a Northern Ireland supplier under a NIRO Order,

and where a SROC is so deleted, it cannot thereafter be produced to the Authority under article 5(2).

7. Where the registered holder of a SROC and a person whom the holder wishes to be the registered holder of it require the Register to be amended, by substituting for the name of the registered holder the name of the other person ("the substitute"), (who must be a person whose name is included on the list referred to in article 59(3)(b))–

(a) the registered holder and the substitute must each submit to the Authority in writing requests which are identical in all material respects; and

(b) where the requirements of sub-paragraph (a) are met, the Authority must, within 5 banking days after the banking day on which (at the commencement of its working hours) it is first in possession of the requests, amend the particulars of the SROC recorded in the Register to show the substitute as the registered holder.

8. Where the Authority receives requests under paragraph 7(a) it must inform both the registered holder of the SROC and the substitute that the requests have been received and, in the event that the requests are not identical in all material respects, must draw this to their attention.

9. Where–

(a) a SROC is issued under this Order; or

(b) a substitute is recorded as the registered holder of a SROC pursuant to paragraph 7,

the Authority must notify the registered holder or, as the case may be, the former and new registered holder of that fact in writing within 5 banking days of the issue or substitution having taken place.

10. The substitute cannot be the registered holder of a SROC until such time as the particulars of the SROC recorded in the Register identify the substitute as such.

11. The Register may be amended by a decision of the Authority–

(a) where the Authority is satisfied that an entry in the Register has been obtained by fraud;

(b) where a decision of a Court of competent jurisdiction or the operation of law requires the amendment of the Register;

(c) where the Authority is satisfied that, for some other reason, it is necessary to amend the Register (for example, because an entry in it is incorrect).

12. The contents of the Register (including the entries referred to in article 59(3)(b)) must be available for inspection by the public on request at reasonable notice during the Authority's working hours and at the request of any person the Authority must provide a written statement of any entry on the Register including any entry referred to in article 59(3)(b).

13. Where any person considers that an entry maintained in respect of them under article 59(3)(b) should be amended or deleted, they may apply to the Authority in writing requesting that the entry be amended or deleted.

14. The Authority must in any procedural guidelines which it produces provide details of its usual working hours.

15. In this Schedule "banking day" means a day on which banks are generally open in the City of London excluding Saturdays and Sundays.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under sections 32 to 32M of the Electricity Act 1989, as substituted by section 37 of the Energy Act 2008. It imposes an obligation ("the renewables obligation") on all electricity suppliers, licensed under the Electricity Act 1989 ("the Act") which supply electricity in Scotland. The renewables obligation requires these electricity suppliers to produce a certain number of renewables obligation certificates in respect of each megawatt hour of electricity that they supply to customers in Scotland during a specified 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 renewables obligation certificates to renewable electricity generators, in accordance with 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 43-44).

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 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 must be undertaken 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 Scotland.

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 Scottish Ministers 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 Scotland.

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.

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

In Part 5, articles 24 and 25 set out how the number of SROCs 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 SROC is to be issued. Article 27 contains the general rule, that the amount of electricity in respect of which a SROC 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 SROCs 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 20011 (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 Scottish Ministers 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 SROCs – that is to say, renewables obligation certificates issued under this Order – by the Authority. Article 41 provides for the revocation of SROCs 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 administered. 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 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 48-52). 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 because a licensed supplier has 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 SROCs 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 SROCs on an annual rather than a monthly basis.

Article 61 revokes the Renewables Obligation (Scotland) Order 2007 ("the 2007 Order") and the Renewables Obligation (Scotland) Amendment Order 2008. The provisions of the 2007 Order are saved in respect of all outstanding obligations or requirements imposed by it.

A full Regulatory Impact Assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Scottish Government Renewables Policy Unit, Department of Enterprise, Energy and Tourism, Meridian Court, 5 Cadogan Street, Glasgow, G2 6AT.

This Order re-enacts provisions of the 2007 Order which 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) (O.J. No. L 283/33, 27.10.2001).

© Crown Copyright 2009

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland.

£9.00