EXECUTIVE NOTE

DRAFT : The Renewables Obligation (Scotland) Order 2009

Introduction

1. Scottish Ministers are committed to the promotion of renewable energy in Scotland; as part of this, they have set a target that 50% of the electricity generated in Scotland (as a proportion of whole demand) should come from renewable sources by 2020, with an interim target of 31% by 2011. This commitment is an important part of a package of initiatives aimed at tackling climate change. The Renewables Obligation (Scotland) Order, or ROS, is a key measure in terms of increasing the amount of renewable electricity generating capacity in Scotland.

Background to the Renewables Obligation

2. The ROS, an affirmative order, was first made in 2002 under powers in the Electricity Act 1989 which were executively devolved (as regards Scotland) to the Scottish Ministers. The Order imposes an obligation on electricity suppliers to provide an increasing percentage of their supply to customers in Scotland from qualifying renewable energy sources.

3. In line with the wishes of the energy sector subject to the Order and those affected by its provisions, the ROS was introduced in almost identical terms to the Renewables Obligation Order 2002, covering England and Wales, which also came into force on April 1 2002. Following reviews of its operation and to accommodate the introduction of a number of changes, the ROS has been revised and replaced or amended each April from 2004 through to 2008. For example, the ROS was amended in 2007 to introduce a system providing higher levels of support to wave and tidal generation located in Scottish waters.

4. The UK Renewables Obligations work currently by awarding generators of electricity from eligible renewable sources one Renewable Obligation Certificate, or ROC, for each MWh (megawatt hour) of electricity they generate. These certificates are a marketable commodity and are bought by licensed electricity suppliers.

5. The market for ROCs is created by imposing on licensed electricity suppliers an obligation to provide an annually increasing proportion of their supply from electricity generated by eligible renewable sources. Suppliers can demonstrate compliance with their Obligation by providing Ofgem with either the requisite number of ROCs – where one ROC is equivalent to one MWh of electricity generated by eligible renewable sources – or by paying the buyout price, or by a combination of the two methods. The buy-out price is a fixed sum payable to Ofgem in lieu of providing ROCs; payments thus made constitute the buy-out fund.

6. The monies paid into the buyout fund are shared between those suppliers who have provided ROCs in proportion to the number of certificates they produce. This means that those suppliers who are unable to produce ROCs reward their competitors, driving the market value of ROCs and thus providing income for renewable generators.

Background to the 2009 Order – Introduction of Banding

7. In order to help meet the Scottish Government's aspiration to meet 50% of whole electricity demand from renewable source by 2020, as well as to contribute to meeting the European renewable energy target of 20%, it is necessary to change the Obligation mechanism to provide more support for emerging renewable technologies.

8. The ROS, and its UK equivalents, has been particularly successful at incentivising those technologies which are currently commercially deployable, e.g. onshore wind, co-firing, landfill gas and sewage gas. They have been less successful at incentivising those technologies which are further from full commercial deployment either due to higher costs – e.g. offshore wind and biomass – or because the technologies are still developing – e.g. wave and tidal, or gasification and pyrolysis.

9. The Scottish Government's intention is to incentivise these technologies by providing more ROCs per unit of electricity generated than to more established technologies. In order to introduce this concept, known as "banding", we have made a number of changes to the current mechanism. These are set out in the following paragraphs.

10. A banded Obligation requires licensed electricity suppliers to submit a specific number of **certificates** (ROCs) rather than a precise amount of renewable electricity. The number of certificates to be provided by each supplier will be announced by the Scottish Ministers on or before October 1st each year preceding the Obligation period in question. Suppliers will still be able to choose between securing and presenting ROCs to the Authority or paying the buy-out price in order to comply with their Obligation. This is set out in Part 2 of the Order.

11. Part 2 also changes the number of ROCs that an eligible renewables generator is awarded per MWh of electricity produced depending on the technology used. By placing renewable technologies into different bands, the intention is that emerging and more expensive technologies will receive more than one ROC per unit of output, with some receiving the same as before (one ROC per unit of output) and some receiving less (i.e. a fraction of a ROC).

12. This means amongst other things that the minimum wave and tidal requirements contained in the ROS which took effect in April 2007 and are referred to in paragraph 3 have been removed, owing to the intention to introduce (subject to State Aid approval – see paragraph 22) higher ROC bands for wave and tidal generation located in Scotland (and where such generation has not otherwise received grant support from the Scottish or UK Governments).

13. Part 2 goes on to address the concept of "grandfathering", and sets out the process for future reviews of banding. Grandfathering means that projects built and commissioned by a particular date, or which have commissioned additional capacity since that date, will be awarded ROCs at an appropriate rate. For instance, a landfill gas generator commissioned before banding was first proposed (in July 2006) will retain their entitlement to one ROC per unit of output. Similarly, projects awarded capital grant support prior to July 2006 will be able to choose between retaining their grant or, if they wish to move to a higher band, repaying all or part of that grant.

14. In Part 4, article 18 specifically excludes stations located geographically in England, Wales and Northern Ireland from claiming ROCs under the ROS. This provision, mirrored in the other UK Renewable Obligations, is to ensure that, where the levels of support differ between jurisdictions, generating stations located in one country cannot accredit under an Obligation applying in another country simply because they will receive more ROCs under that system.

15. In Part 8, articles 49 and 50, deal with recouping Ofgem's costs of administering the Renewables Obligation from the buyout and late payment funds. Article 50 also includes the power allowing Ofgem to hold off paying out monies from the late payment fund where there is less than £50,000 in it. This is because it has been calculated that it costs suppliers more to receive their share of a pot less than £50,000 than they would in fact receive from such a fund. Part 8 also includes some changes to previously established provisions (for instance, on mutualisation) which are consequent to the above amendments.

16. New provisions in Part 9 (article 58) deal with information to be provided to Ofgem with regards the sustainability of the biomass used, while Schedule 1 sets out the Obligation levels, and Schedule 2 sets out the banding levels for different technologies and their definitions.

17 Other than these changes the majority of the text of the ROS is unchanged from previous versions, although it has been moved around to give it a clearer and more logical structure.

Enabling powers

18. The ROS is being made under powers conferred by sections 32 to 32M of the Electricity Act 1989, as amended and introduced by the Energy Act 2008.

Consultation

19. Prior to its introduction in April 2002, the ROS was the subject of two consultations, the first between November 2000 and February 2001, and a formal statutory consultation between August and October 2001. Statutory consultations also preceded the introduction of the revised ROS Orders from 2004. Two separate consultations (available here) took place between March and December 2008 on the introduction of banding to the ROS. The key proposal, that banding be used to replace the current higher support for wave and tidal generation, was supported by a majority of respondents to both consultations.

European Directive

20. The ROS, in tandem with the ROO, forms an important part of the UK's compliance with article 3.1 of the European Directive on the promotion of electricity produced from renewable sources (Directive 2001/77/EC). Article 3.1 provides that member states shall take appropriate steps to encourage greater consumption of renewable electricity in pursuit of national indicative targets.

State Aid

21. All UK Renewables Obligation Orders require State Aid clearance as the recycling of buy-out funds to compliant suppliers is deemed by the Commission to constitute a State Aid. Separate applications have been submitted to the Commission for approval relating to both the introduction of banding, and a separate notification from the Scottish Government on the move from the existing support mechanism for wave and tidal generation in Scotland to higher bands for those technologies.

22. The introduction of banding as a whole was approved by the Commission on 12 February. The timing of this approval means that the Commission has yet to respond formally to the Scottish Government's separate notification on higher bands for wave and tidal power in Scotland. As such, our Order as introduced does not contain the higher bands consulted upon – **however**, our intention is to lay a short amendment introducing these to the ROS once the Commission's response has been received.

Financial Impacts

23. The ROS creates small additional costs for electricity suppliers, which suppliers can then pass through to industrial, business and domestic consumers as part of their electricity bills. Ofgem has estimated that the Renewables Obligation cost the average UK household £7.35 per year in 2007, and has forecast that this will rise to £11.41 by 2010/11 (based on 2006 prices). The Scottish Government also commissioned a study (available here) looking at how to translate the current support for wave and tidal power under the ROS into a banded mechanism. This study found that the maximum impact of these higher bands in Scotland would, if introduced, amount to less than 0.1% of the average household electricity bill.

Scottish Government Renewables Policy Unit
February 2009

Regulatory Impact Assessment for the
Renewables Obligation (Scotland) Order 2009

1 Title of Proposed Regulation

1.1 Renewables Obligation (Scotland) Order 2009

2 Purpose And Intended Effect Of Measure

Objectives

2.1 The prime objective of the Renewables Obligation (Scotland) Order 2009 (the ROS) is to introduce the principle of "banding" – that is, to differentiate the levels of support that different renewable energy technologies might receive for their output. The Order will:

- Amend the ROS, so that more expensive renewable energy generation technologies, especially those at an earlier point in their development are awarded more than 1 Renewables Obligation Certificate (ROC)/MWh of electricity generation (multiple ROCs) while projects in more economic technologies are awarded less than 1 ROC/MWh (fractional ROCs);
- Retain the current higher level of support for wave and tidal stream generation in Scottish waters;
- Increase the level of the Obligation above the level previously announced if actual generation requires it (known as 'headroom'), to a maximum level equivalent to 20%[1];
- Introduce the principle of "grandfathering" in order to protect investor confidence in the predictability of the value of ROS. Existing projects and those operational prior to the introduction of banding, with the exception of co-firing (which requires comparatively low levels of capital investment), will be grandfathered at 1 ROC/MWh until 2027.
- Include as eligible electricity supplied to customers by unlicensed suppliers through a private wire network; and
- Introduce a power to allow funding of Ofgem Administrative Costs.

Background

2.2 The Renewables Obligation mechanism was introduced in 2002, with separate Orders in England and Wales, Scotland (and later Northern Ireland). These combined to create an obligation on licensed electricity suppliers across the UK to source more power from eligible sources of renewable electricity, such as wind, biomass, hydro, wave and tidal power. The Obligation remains the primary instrument via which renewable electricity generation targets in Scotland (50% of whole electricity demand by 2020) and across the UK are being pursued.

2.3 The UK Obligations require licensed electricity suppliers to ensure that specified and increasing amounts of the electricity they supply are from renewable sources. In 2008/09, this level was 9.1% and was due to rise to 15.4% by 2015/16.

[1] This is to ensure that costs to consumers remain within acceptable limits.

Without the financial support provided by the Obligations, most forms of renewable electricity would not be economic and the Scottish Government would not achieve its targets for increasing the supply of electricity from renewable sources.

Rationale for Government Intervention

2.4 The UK Obligations were designed as technology neutral instruments, aimed at supporting and bringing forward the most economic forms of renewable generation. There is plenty of evidence to suggest that it has had a positive effect – total generation from renewable sources (as a proportion of whole demand) stood at 20.1% in 2006, a rise of just under 8% since 2002. However, other factors, such as increased costs for renewables generation, mean that the Obligations in their current form are unlikely to support the diverse range of technologies that will achieve Scottish and UK Government targets for renewable generation. The desire to bring forward new renewables capacity, coupled with the wish to protect existing investments, led to proposals for a "banded" Obligation.

2.5 Intervention, in the form of banding, is designed to:

- Increase renewable electricity production, helping to meet the Scottish Government's targets for generation from these sources, achieving a secure and diverse energy supply as well as helping to tackle climate change.
- Promote economic growth within the energy sector by attracting investment in new and emerging technologies such as wave, tidal stream, biomass and offshore wind.
- Retain the general principle behind the Obligation, which is that licensed suppliers can comply by producing evidence to Ofgem or by paying the buy-out price.

3 Consultation

Within Government

3.1 The Order has been the subject of lengthy discussion and consultation within and between Enterprise, Energy and Tourism Directorate, Waste and Pollution Reduction and the Scottish Environmental Protection Agency. The UK wide nature of the Obligation mechanism has been reflected in regular discussions with colleagues in the Department of Energy and Climate Change, and the Department of Enterprise, Trade and Investment in Northern Ireland.

Public Consultation

3.2 A preliminary consultation paper, *Introduction of Banding to the Renewables Obligation (Scotland*[2]*)*, ran for 12 weeks between April and July 2008. It sought views on the introduction of banding in general, with a particular focus on areas where Scotland might differ from the rest of the UK (specifically, higher ROC bands

[2] http://www.scotland.gov.uk/Topics/Business-Industry/Energy/19185/ROSCons08BPR

for wave and tidal power, additional requirements for energy from waste plant and support for island wind projects).

3.3 The consultation attracted 45 responses from a range of stakeholders, including electricity suppliers and generators, trade associations, environmental organisations, public sector bodies and individuals.

3.4 A second consultation[3] ran between September and December 2008, setting out the Scottish Government's final proposals around the introduction of banding. The consultation was accompanied by a report from SQWenergy on the effects of the proposed changes[4].

3.5 Both consultations elicited support for banding in general, as well as maintenance through banding of higher support for wave and tidal power in Scotland.

4 Options

Banding – UK Obligations

4.1 Modelling carried out by Oxera[5] looked at three options for the introduction of banding as a whole to the UK Obligations. The assumptions in the following paragraphs are based upon central electricity price and technology cost assumptions.

Option 1 – Do Nothing

4.2 The modelling indicated that unchanged (the "do-nothing" scenario, where banding isn't introduced), the UK Obligations will deliver 7.9% electricity from ROC eligible renewables generation by 2010 against targets of 10% and 11.4% by 2015 and 12.0% by 2020. Under this option, the level of generation falls well short of the maximum obligation level of 15.4%.

4.3 This level of generation is achieved at a total subsidy cost of £21.5 billion over the lifetime of the Obligations. This cost is assumed to equate to the cost to consumers, and assumes 100% cost pass-through (this represents an upper limit and the true cost is likely to be somewhat less than this). Over the lifetime of the technologies supported through the Obligations, this option saves 83.8 million tonnes of carbon (MtC).

4.4 The lifetime resource cost (i.e. the cost of the renewable technologies) is estimated at £13.1 billion, leading to increased electricity prices of around 4%. The difference between the subsidy cost and the resource cost is therefore estimated at £8.4 billion over the lifetime of the renewable technologies. This represents the maximum 'deadweight' cost of the Obligations – a measure of the efficiency of the instrument. As electricity demand is relatively inelastic to price, no reduction in demand is assumed as a result of increase in electricity prices.

4.5 The deadweight cost is due in part to the amount by which technologies receive subsidy under the current model which is greater than the level needed for them to be economic. For example, co-firing and landfill gas technologies, which have very low capital costs, are over-subsidised by the current model. Delivering

[3] http://www.scotland.gov.uk/Resource/Doc/917/0065773.pdf
[4] http://www.scotland.gov.uk/Resource/Doc/917/0065774.pdf
[5] http://www.berr.gov.uk/files/file39039.pdf

higher levels of deployment in an unbanded Obligation would lead to higher proportionate deadweight. It is in part this deadweight element that the Obligation reforms are aimed at addressing.

Option 2 – Large Number of Bands

4.6 This scenario assumed a separate band for each renewable technology, with bands set to make the central step of each individual technology supply curve economic (and with no cap on co-firing ROCs). This option included a headroom mechanism, which increases the level of the obligation when the headroom threshold is breached, ensuring that the actual number of ROCs is higher than generated volumes in previous years.

4.7 The modelling indicated that this scenario would deliver 9.6% generation from ROC eligible renewables generation by 2010, 13.6% by 2015 and 13.8% by 2020. The higher banding levels increase both the actual deployment for renewable electricity as well as leading to more ROCs being issued than the actual level of generation in MWh. If ROCs are converted on a one for one basis, the level of ROCs in 2027/28 is 65 TWh compared to a volume of generation of 45 TWh. Combined with the increase in absolute deployment, this would have the impact of reducing the ROC price, and therefore expected revenues, which in turn is predicted to decrease investment in onshore wind, despite onshore wind continuing to receive one ROC.

4.8 This level of generation would be achieved at a lifetime cost to consumers of £27 billion over the lifetime of projects supported by the Obligations, saving 96 MtC emissions. Overall therefore, this option would increase the level of renewables generation but at considerable cost to the consumer. Over the lifetime of the RO, the cost to the consumer would increase by £5.5 billion compared to Option 1.

4.9 This approach would increase the overall resource cost incurred through the Obligations, as well as the cost per tonne of carbon, and the Net Present Value (NPV) cost, compared to Option 1. This is because this banding regime would bring forward more expensive technologies. The fact that the resource cost would increase by less than the consumer subsidy results in a reduction in the lifetime deadweight of £2.3 billion compared to option one – a more efficient subsidy.

4.10 The higher level of resource cost would result in a higher estimated impact on electricity prices, of around 6%, compared to around 4% in Option one. It would also deliver higher intermittent generation than Option 1, thus incurring higher system balancing costs at an estimated cost of between £50 to £100 million over the lifetime of the technologies.

4.11 This scenario is highly complicated, and would demand more precision than is considered possible when predicting future costs. A regime with multiple bands would probably require levels to be reset and calibrated on a more frequent basis than one with fewer bands, introducing increased uncertainty for investors. It could also be seen as the Obligations trying to pick winners, something which several consultation responses have strongly advised against.

Option 3 – Banding Package with Five Bands – Favoured Option

4.12 This scenario is similar to Option 2, though it simplifies the number of bands to be introduced, with each technology being assigned to one of five banding levels:

- Landfill Gas will receive 0.25 ROCs/MWh
- Sewage gas, and co-firing non energy crop (regular) biomass will receive 0.5 ROCs/MWh from 2009.
- Technologies in the Reference Band receive 1 ROC/MWh
- Technologies in the Post-Demonstration Band receive 1.5 ROCs/MWh
- Technologies in the Emerging Technologies Band receive 2 ROCs/MWh.

4.13 This option reduces the level of subsidy compared to Option 2, thus reducing the associated divergence between the number of ROCs and the level of generation. ROC prices remain at a level sufficient to allow an increase in the level of onshore wind generation while retaining the level of support necessary to bring forward increases in generation from biomass and offshore wind. The smaller number of bands also allows greater flexibility, and reduces the need for frequent reviews of the banding structure and levels.

4.14 Modelling indicates that this scenario would deliver 8.8% ROC eligible renewables generation by 2010, 13.4% by 2015 and 13.9% by 2020. The total subsidy under Option 3 is estimated at £23.2 billion (an increase in total subsidy of £1.7 billion compared to Option 1) over the lifetime of the Obligations. Option 3 saves 96.5 MtC over the lifetime of the technologies, an increase of 12.7 MtC over Option 1.

4.15 Option 3 is also seen as likely to bring forward higher levels of new renewables generation to Option 2, with a lower increase in the cost to consumers of roughly £1.7 billion compared to Option 2 - £5.5 billion. Resource costs under Option 3 are estimated at £16.7 billion, an increase of £3.6 billion over option one. The cost per tonne of carbon is £173, higher than Option 1, but lower than Option 2.

4.16 The estimated lifetime deadweight cost of Option 3 is £6.5 billion. This is a reduced deadweight cost of £1.9 billion compared to Option 1. The higher resource cost implies higher electricity prices than under Option 1 (an estimated 5% increase in 2015) but lower than under Option 2. Option 3 leads to a higher level of intermittent generation than under Option 1, and would thus incur some additional system balancing costs.

4.17 The bands in the ROS and other UK Obligations as laid reflect this approach. However, the ROS also includes an enhanced band for wave and tidal stream generation (see below)

Banding – ROS

4.18 As outlined in section 3 above, the Scottish Government also consulted specifically on how to maintain higher support for wave and tidal power in Scotland.

Option 1 – Do Nothing

4.19 This would involve leaving in place the current Marine Supply Obligation mechanism (MSO). The MSO levels are currently set to zero, as no eligible wave or tidal generation has either been commissioned or is expected to come on stream within the coming Obligation period and which would thus trigger the mechanism.

4.20 The Scottish Government argued and received support through its consultations for the proposition that consistency of approach merited the use of higher bands as opposed to retaining the MSO. It was also felt that additional enhanced bands for wave and tidal generation would be less complex to administer than the MSO, with all generation receiving a guaranteed number of ROCs as opposed to a share of a separate buy-out fund based on advance output forecasts.

Option 2 – Enhanced Band for Wave and Tidal Stream

4.21 The Scottish Government commissioned SQWenergy to examine the effects of translating the support currently available under the MSO for wave and tidal generation into higher ROC bands. This would mean continuity in terms of the incentive for such generation in Scotland, and greater consistency with the wider introduction of banding as a whole to the UK Obligations.

4.22 The modelling carried out by SQWenergy considered three scenarios comprising different levels of ROC output and Obligation compliance, and based on a certain amount of wave and tidal stream generation. The study found that the switch to an enhanced ROC band for wave (5 ROCs) and tidal stream (3 ROCs) would (under the most extreme scenarios) have a very small effect on UK ROC prices and output, whilst maintaining the current incentive to build such capacity in Scotland.

5 Costs and Benefits

Sectors and Groups Affected

5.1 The Obligation mechanism affects directly the following groups:

- Licensed electricity suppliers. It is this group whom the legislation compels to source either eligible renewable electricity or pay the buy-out price.
- Renewable electricity generators. The introduction of banding will affect the level of income that each generator can expect to obtain through the sale of their electricity or ROCs to licensed suppliers.
- Electricity consumers. This group will be affected by the way in which and to the extent that licensed electricity suppliers pass on their compliance costs.

Benefits

5.2 The primary benefits of a switch to a banded Obligation will accrue to generators of renewable electricity, as the new mechanism is designed to offer more precise and appropriate levels of support to groups of technologies, depending on their costs. A growth in investment in and demand for generation from these sources should lead to a more competitive market and greater diversity.

5.3 Technology developers, fuel providers (in the case of biomass and renewable wastes) and equipment manufacturers should also benefit from the effect that increased investment could have on the supply chain for emerging technologies.

Costs

5.4 The introduction of banding as a whole will not on its own increase the total amount of cost subsidy in the Renewables Obligations, and therefore the costs to consumers. The out-turn costs to consumers will vary with the actual level of deployment – increased deployment will increase consumer costs. Under the central assumptions for banding, the changes to the Obligations are predicted to cost consumers an additional £1.7 billion over the lifetime of the Obligations (compared to the scenario where no changes were introduced). The higher resource cost implied by the proposed introduction of banding is £3.6 billion.

5.5 The costs arising from the proposed introduction in Scotland of enhanced wave and tidal stream bands will depend on other factors, such as the total number of ROCs produced by all technologies. Modelling conducted for the Scottish Government estimated that the lifetime costs of these enhanced bands under the central scenario to be £262 million. This can be compared with the estimated cost of the banded Obligations as a whole of £23.1 billion.

5.6 Suppliers are free to pass on to consumers the additional costs incurred in complying with their Obligations. Ofgem has estimated that the UK Obligations cost the average UK household an additional £7.35 in 2007, and has forecast that this will rise to £11.41 by 2010/11.

5.7 SQWenergy has predicted that the introduction of enhanced wave and tidal bands could, by 2015/16, lead to a maximum additional cost of 36p on domestic electricity bills.

6 Small / Micro Firms Impact

1.1.1

6.1 The major impact of the Obligation on the large majority of small businesses is likely to continue to come from increased costs of electricity which, while affecting all electricity consumers, will represent a larger proportion of income for smaller companies.

6.2 The majority of small businesses involved in renewables generation are likely to be operating technologies which are further from deployment (such as wave and tidal device developers, anaerobic digestion and biomass plants). As such, they will benefit from banding up of their technologies. Those small businesses involved in supply who are unlicensed will benefit from changes to legislation proposed to ensure they can claim ROCs without having to enter into sale and buyback arrangements. Small businesses involved in licensed electricity supply should not experience any additional burdens form the introduction of banding.

6.3 The Order also contains further measures aimed at making the Obligation more attractive for small and very small renewable schemes, including higher returns for microgenerators (under 50 kilowatts).

7 Legal Aid Impact Test

7.1 This test is not considered relevant to the changes to the ROS.

8 'Test Run' of Business Forms

8.1 The changes to the ROS do not involve business forms.

9 Competition Assessment

9.1 The ROS is a market-based instrument that operates in a competitive market for electricity. The rules of the RO apply in a non-discriminatory way to all participants in the renewables industry and electricity sector. It is intended that this will remain the case. The introduction of banding coupled with the retention of the mechanism which recycles money from the buyout fund should act as a positive incentive to competition between existing and new renewable generators as well as licensed electricity suppliers.

10 Enforcement, Sanctions and Monitoring

10.1 The ROS, like all UK Renewable Obligations, is administered and enforced by Ofgem. Non-compliance is considered a breach of a 'relevant requirement' of the Electricity Act and Ofgem may impose appropriate sanctions. Ofgem reports annually on its administration of the Obligations and conducts regular audits in relation to compliance.

10.2 The changes proposed do not introduce any new powers of sanction.

11 Implementation and Delivery Plan

11.1 The Renewables Obligation (Scotland) Order 2009 will be laid before the Parliament during February 2009, and is due to come into force with effect from April 1.

12 Post-Implementation Review

12.1 The Scottish Government has undertaken to carry out reviews of the banded ROS on an agreed timetable. Subject to the triggers for review set out in the Order, it is proposed that the first review of the RO banding levels should commence in October 2010, and that subsequent reviews should operate at four yearly intervals.

12.2 The Scottish Government will continue to monitor the performance of the ROS, and will work closely with Scottish stakeholders, the other UK administrations and with Ofgem on future changes to the mechanism.

13 Summary and Recommendation

13.1 The recommendation is that changes be made to the ROS to effect the introduction of banding, including the translation of existing higher support for wave and tidal stream generation in Scotland into a higher band. This latter will depend on

State Aid approval from the European Commission, and will thus need to be introduced in the form of a subsequent amendment. This is in line with sections 4.12-4.17 and 4.20 above.

14 Declaration and Publication

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