EXPLANATORY MEMORANDUM TO

THE ENERGY (AMENDMENT) ORDER (NORTHERN IRELAND) 2015

2015 No 247

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment to accompany the Statutory Rule (details above) which is laid before the Assembly.

1.2 The Rule is made using powers conferred by Article 56(1) of the Energy (NI) Order 2003 (the Energy Order). The Statutory Rule is subject to the affirmative resolution procedure in draft before the Assembly.

2. Purpose

2.1 This Statutory Rule amends the Energy Order (Northern Ireland) 2003 to confer a power on the Department to make a renewables obligation closure order.

3. Background

3.1 Articles 52 to 55 of the 2003 Energy Order provide the framework for the introduction of an obligation (a 'renewables obligation') on electricity suppliers requiring them to demonstrate the supply of electricity from renewable energy sources to consumers. The current detail of that obligation (the Northern Ireland Renewables Obligation (NIRO)), which was introduced in 2005, is contained in the Renewables Obligation Order (Northern Ireland) 2009.

3.2 The NIRO is the main policy measure for supporting the development of renewable electricity in Northern Ireland. It works alongside the Renewables Obligation for England & Wales and the Renewables Obligation Scotland. As part of UK-wide Electricity Market Reform, all three Renewables Obligations are due to close to new generation from 1 April 2017.

3.3 The Rule will amend and replace the primary provisions contained in the 2003 Energy Order relating to the Northern Ireland Renewables Obligation (Articles 52 to 55). Article 56(1) of the Energy Order allows for amendment to the Energy Order to reflect corresponding changes to the primary legislation governing the Renewables Obligations in Great Britain.

Policy Objectives of the Statutory Rule

3.4 The proposed Energy (Amendment) Order (Northern Ireland) 2015 contains powers to allow the Department to make a Renewables Obligation Closure

Order. UK-wide Electricity Market Reform (EMR) will require the closure of all three Renewables Obligations to new generation and additional capacity from 1 April 2017 after which time, large scale renewables will be incentivised under a Feed-in Tariff with Contracts for Difference (CFD) mechanism. A closure order has already been legislated for in Great Britain (GB) where CFDs have been available from late 2014. The powers for the GB closure order were introduced in the Energy Act 2013 which implemented EMR.

4. Consultation

4.1 A consultation on the need to close the NIRO in 2017 was undertaken in 2013 as part of a wider consultation on changes to the NIRO. The majority of respondents agreed that it would be unviable to keep the NIRO open after 2017 if the other two Renewables Obligations in GB were closed. Separate consultation on a Renewables Obligation Closure Order has been undertaken by the Department.

5. Equality Impact

5.1 The Renewables Obligation is a market-based mechanism whose rules apply in a non-discriminatory way to its participants. The proposed amendments to the Energy Order will not alter this position.

6. Regulatory Impact

6.1 The proposed introduction of the power to make a closure order has been 'screened out' as part of the Regulatory Impact Assessment process.

7. Financial Implications

7.1 The NIRO is a market-led support mechanism through which the cost of support to renewable generators is borne by electricity consumers across the United Kingdom. There are no financial implications arising from the introduction of a power to make a closure order.

8. Section 24 of the NI Act 1998

8.1 This Rule does not contravene section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 There are no EU implications.

10. Parity or Replicatory Measure

10.1 Corresponding powers to enable the closure of the Renewables Obligations in Great Britain (GB) were introduced in the Energy Act 2013, which implemented EMR. Additionally, a closure order has already been legislated for in GB as

CfDs were made available from late 2014. It is proposed that the rule will be laid before the NI Assembly in March with the intention that it will come into operation from April 2015.

11. Additional information

11.1 Not applicable.

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