Department for
Business, Energy
& Industrial Strategy

Changes to the Renewables Obligation scheme

Government response to the consultation on changes to RO mutualisation arrangements

February 2021

Any enquiries regarding this publication should be sent to us at: RO@beis.gov.uk

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Executive summary

Purpose of this document

This document summarises the responses Government received to its recent consultation on changes to mutualisation arrangements under the Renewables Obligation support scheme. It sets out Government's response, which is to proceed with its proposal for the mutualisation threshold to be linked to the cost of the scheme and for it to be re-calculated each year. Subject to Parliamentary approval, this new arrangement will be introduced via an amendment to the Renewables Obligation Order 2015 (as amended). It is intended that it will come into force on 31 March 2021, to first take effect in respect of the 2021/22 obligation year.

Territorial extent

The consultation to which this Government response relates applies to England and Wales only. Scotland and Northern Ireland have equivalent schemes which are the responsibility of the devolved administrations.

The Renewables Obligation (RO) and mutualisation

The Renewables Obligation (RO) is Government's biggest renewable electricity support scheme, supporting around 30% of the electricity supplied in the UK. It places an annual obligation on electricity suppliers to obtain and present Renewables Obligation Certificates (ROCs) to Ofgem in proportion to the amount of renewable electricity they have supplied over the course of each obligation year. As an alternative, suppliers may make a payment into a cash fund. The cash fund is recycled back to suppliers who met their RO with ROCs, giving them added value.

Electricity supplier non-compliance with the scheme, which has increased in recent years, manifests as unpaid bills and leaves shortfalls in the scheme's cash fund. The scheme features a mutualisation mechanism, which seeks to recover payment shortfalls from other suppliers when they exceed a £15,400,000 threshold. Mutualisation payments are recycled back to suppliers who met their RO with ROCs. This helps to protect ROC prices by ensuring that only a small amount of the cash fund is at risk of non-recovery. The mechanism is therefore of benefit to generators who are awarded ROCs for their renewable generation.

When the mutualisation was first introduced into the scheme in 2005, the threshold was set at a level that was equivalent to about 1% of the cost of the scheme to suppliers (£5.5m). In other words, up to 1% of scheme cost remained at risk of being unrecovered in the event of supplier payment default. Whilst the threshold has since grown to £15.4m, growth in the size of the scheme means the threshold is now equivalent to just 0.25% of the cost of the scheme, and mutualisation can now be triggered for comparatively much smaller amounts. In other words, the balance of risk of supplier payment default has shifted from generators towards suppliers and their customers.

Consultation on changes to RO mutualisation arrangements

Government launched a consultation on 11 December 2020 on a proposal to link the RO mutualisation threshold to the annual cost of the scheme. The statutory consultees under the RO, including all licensed electricity suppliers, accredited generators, and relevant trade associations, were contacted directly to alert them to the consultation. The proposals were discussed with the devolved administrations in Wales, Scotland and Northern Ireland before the consultation was launched. The consultation closed on 11 January 2021.

The consultation proposed that the mutualisation threshold be calculated annually as 1% of the forecast cost of the scheme to suppliers. As noted in the consultation document, this would increase the threshold to around £62m in the first instance (i.e. for the 2021/22 obligation year), but it would rise or fall in future years as the cost of the scheme changes. The consultation stated that this new arrangement would restore the balance of risk (associated with supplier payment default) between generators and suppliers that was established when the mutualisation mechanism was first introduced in 2005. This would likely be of benefit to consumers as they would be less likely to face pass-through costs.

Government sought views on the proposal, how it might impact existing commercial arrangements for the supply/sale of ROCs, and the proposed implementation date of 2021/22. In total, responses were received from 39 stakeholders representing electricity suppliers, renewable electricity generators, energy industry trade associations, ROC brokers/Power Purchase Agreement off-takers, a charity and the energy regulator, Ofgem. Some respondents had an interest in more than one category. A list of respondents is given at Annex A.

Alongside the consultation, Government sought views through a call for evidence on a revised approach to the way the mutualisation amount is calculated. Government will respond to stakeholder responses to the call for evidence in a subsequent publication.

Summary of the Government’s post-consultation decision

After careful consideration of the consultation responses, Government has decided to proceed with its proposal to link the RO mutualisation threshold to the annual cost of the scheme.

In the near term, this new arrangement will have the effect of increasing the mutualisation threshold from £15.4m to about £62m from the 2021/22 obligation year – this will lower the likelihood of mutualisation being triggered in the event of supplier payment default. Government has considered the concerns of respondents and recognises that its proposed new arrangement will increase the sum that might remain unrecovered in the event of supplier payment default – in its consultation, Government determined this to be equivalent to an increase from about 0.25% to 1% of the £55 “notional value” of a ROC. Government notes that this will have a small impact on generator returns but is of the view that the benefits for suppliers and their customers of proceeding outweigh the costs.

Next steps

Subject to Parliamentary approval, the new arrangements will be introduced via an amendment to the Renewables Obligation Order 2015, the legislation which underpins the scheme. A draft statutory instrument, which will be introduced ahead of the 2021/22 obligation year, is given in Annex B. The aim is for the change to be in force by 31 March 2021, but this is subject to the Parliamentary timetable and the implementation date may change.

The Government also plans to work with the industry regulator, Ofgem, to look more closely at the matter of supplier payment default, which can lead to mutualisation. A consultation on the matter, which will consider both regulatory and legislative based approaches, will be issued in the next few months.

Analysis of responses to the consultation

Question 1 - Do you agree with the Government's proposal to link the mutualisation threshold to the cost of the scheme? Please explain your reasoning.

Main messages from responses

A summary of responses to question 1 is as follows:

Response to Question 1	Number of responses
Agree	19
Disagree	17
Unsure, don't know, no comment, response unclear	3

Opinion was evenly divided, and responses were strongly correlated with respondent type. Of 15 respondents concerned only with electricity supply, 14 supported the Government's proposal. Conversely, of 19 respondents with an interest in generation, including renewable electricity generators, electricity suppliers who also generate, and trade associations which include generators in their membership, 14 disagreed with the Government's proposal.

Respondents who agreed

Two key reasons were given by those respondents who agreed with the Government's proposal. First, most were of the view that the proposal would restore the balance of risk associated with payment default back to where it was when mutualisation was first introduced, thereby restoring the original principle of mutualisation. Second, most were of the view that because the proposal would reduce the likelihood of mutualisation occurring, costs for compliant suppliers, and their customers, would be reduced. Some further commented that under the proposal, suppliers would not be unduly exposed to the failure of their competitors. Other supportive comments, which were made by one or two respondents, are summarised below:

- Generators should be able to absorb the small increase in risk and/or costs in a given year.
- Electricity suppliers are generally considered by some respondents to have lower profit margins than generators, and therefore it is reasonable that they should face a lower burden of the financial risk.

- The proposal will reduce the administrative burden of running mutualisation events for both Ofgem and suppliers.
- Linking the mutualisation threshold to the cost of the scheme would give a more proportionate approach.

Although supporting the proposal, a few suppliers raised concerns about the impact on generators, the problem in forecasting the risk of future mutualisation, and that the revised threshold does not address the fundamental issue of supplier failure.

Respondents who disagreed

Several reasons were given by those respondents who disagreed with the Government's proposal. Most felt that it was unfair and would have a detrimental impact on generators since it would lower the value of ROCs. Some further noted that generators would have no means of recovering associated losses - this was contrasted with the situation for electricity suppliers who, in their view, could pass costs on. About half of respondents were concerned about the impact the proposal would have on generators who have aligned investment decisions to existing mutualisation arrangements, and who could not have foreseen such a change. A similar amount stated that it could undermine the principle of regulatory stability and certainty, undermining confidence in other Government schemes – two of these respondents said the proposed changes to the scheme were retrospective. Over three quarters of the respondents pointed out that the proposal did not address the fundamental issue of supplier failure. Other comments, which were made by between one and three respondents, are summarised below:

- Per-ROC recycle payments have been below the expectations of some respondents for many years and the proposal is a further incursion on generators returns and undermines revenue certainty.
- The loss of ROC income could affect the viability of some generators.
- There could be knock-on impacts with lenders, credit worthiness of generators and loss of capital from RO markets. Suppliers are in control of their own pricing - mutualisation is built into 'risk premiums' in the supplier contracts. Suppliers already benefit at the expense of generators.
- Generators should not have to bear extra risk as they have no influence or control over compliance by suppliers.
- Increasing the mutualisation threshold without reference to market conditions (i.e. ROC and power prices (which they argue have fallen) is irrational and potentially unlawful.
- If the mutualisation threshold were to be increased, it should be done in line with inflation of the buy-out price, as that would be more in keeping with the original intent of the scheme.
- The mutualisation threshold is administrative (i.e. designed to prevent trivial amounts being mutualised) and that increasing it would run counter to the original policy intent.

Post-consultation decision on question 1

After careful consideration of the consultation responses, Government has decided to proceed with its proposal to link the RO mutualisation threshold to the annual cost of the scheme as no robust evidence was submitted to justify changing the proposal.

In the near term, this new arrangement will have the effect of increasing the mutualisation threshold from £15.4m to about £62m from the 2021/22 obligation year – this will lower the likelihood of mutualisation being triggered in the event of supplier payment default. Government has considered the concerns of respondents and recognises that its proposed new arrangement will increase the sum that might remain unrecovered in the event of supplier payment default – in the consultation, Government determined this to be equivalent to an increase from about 0.25% to 1% of the £55 “notional value” of a ROC. Government notes that this will have a small impact on generator returns but is of the view that the benefits for suppliers and their customers of proceeding outweigh the costs.

Restoration of 2005 arrangements and the impact on generator returns

Government recognises that the proposal could have a small negative impact on generators’ ROC returns because a larger fraction of recycle payments will be at risk of remaining unrecovered in the event of supplier payment default. This could manifest in two ways. First, where ROCs are traded for a fixed price (i.e. where the electricity supplier retains all recycle payments), or mutualisation recycle payments do not form part of any pass-through agreement, suppliers/ intermediaries may factor the increased uncertainty into the price they are willing to pay generators for ROCs. Second, where an arrangement is in place for recycle payments to be passed-through to the generator from whom the ROC was purchased, there will be an increased risk that an element of these payments might not be forthcoming (i.e. up to a new maximum of ~£62m across the scheme, an increase of about £47m on current arrangements).

Government recognises that some generators might be unable to recover these potential losses. Nevertheless, Government remains of the view that, on balance, the proposed measure is justified and represents the restoration of an arrangement that was introduced in 2005 to secure the scheme’s buy-out/late payment funds (i.e. to the advantage of generators), and which has since been unintentionally eroded to the detriment of electricity suppliers and their customers. Further, and as discussed below, it is of the view that the proposed new arrangements were foreseeable.

Similarly, since this action is restorative (in terms of the amount at risk as a proportion of nominal ROC price), the Government disagrees with the view that its proposal will impact the credit worthiness of generators and damage the ROC market. Government further notes that the additional amount that will be at risk (an additional £0.41 per ROC) is comparatively small in relation to the existing inter-year variability in the per-ROC recycle amount (which has fallen within the range £0 - £15 per ROC over the past 10 years).

Foreseeability of changes

On the matters of foreseeability, certainty and stability that were raised by respondents, the Government notes that it consulted on similar proposals in 2010[1]. On that occasion it took the decision not to introduce any changes. However, in its response to the 2010 consultation it stated that in the longer term it would consider amending the threshold in line with the increasing size of the Obligation as set by the headroom mechanism. The Government has now made such a consideration and has decided that it is appropriate to take restorative action, i.e. to restore mutualisation arrangements back to where they were in 2005. It is common for Government to make changes to a scheme to reflect changing external circumstances. Given that the Government said that it might reconsider the situation at a later date, the Government's view is that this action was foreseeable and is not retrospective. It therefore disagrees with those respondents who have said that it will undermine the principle of regulatory stability and certainty, as well as confidence in other Government schemes.

Impact on generator viability

Given the magnitude of the potential impact on ROC prices, notably in comparison to the inter-year variability in the per-ROC recycle amount, Government is not convinced that this action will lead to the early withdrawal of accredited generating stations from the scheme. Government notes the views that there will be increased risk associated with fixed price ROCs but expects the market to adjust in response.

Market conditions and generator expectations

On the view of some respondents that market conditions and generator returns should be taken into account in the Government's proposal (because, it is argued, they have been lower than what generators might have expected), the Government is of the view that the scheme is market-led and as such returns have never been guaranteed. That said, the headroom mechanism that was introduced into the scheme in 2009 sought to increase ROC price certainty by offering protection against ROC price crashes which might result from ROC over-supply - the mechanism aims to ensure ROC under-supply by increasing supplier demand. However, it did not seek to give certainty to any particular price. In any case, ROC prices are not decided by Government, they are merely a reflection of anticipated notional value[2] and the amount that participants are willing to pay. Consequently, Government rejects the assertion that there have been shortfalls in historic per-ROC recycle values (because the recycle value is not a fixed amount) and disagrees that the recycle value is materially relevant to the level of the mutualisation threshold.

A comment was made that mutualisation is built into 'risk premiums' in supplier contracts, so suppliers already benefit at the expense of generators. The Government is unclear what is meant by this statement but assumes that it means that suppliers already charge their customers a premium to protect against the eventuality of mutualisation. No evidence was

[1] The Statutory Consultation on the Renewables Obligation Order 2011

[2] The "notional value" is determined as the buy-out price plus the value of any recycle payments which ROCs subsequently attract – it is an indicator of what a ROC is worth.

provided to support this statement, and it is unclear how suppliers benefit at the expense of generators. Consequently, Government is unable to comment further.

Purpose of the mutualisation threshold

The Government also challenges the view of those respondents who have stated that the mutualisation threshold is administrative and that increasing it would run counter to the original policy intent. The 2004 statutory consultation that preceded the introduction of mutualisation into the scheme noted:

> *"It would not be appropriate to set in motion a complex process where the shortfall was a small one that did not significantly affect confidence in the Renewables Obligation. We therefore propose that there should be a minimum level of shortfall that would trigger mutualisation".*

This confirms that the primary reason for the inclusion of a threshold was one of material impact on the scheme. This is further supported by the fact that the threshold was initially set on an upward trajectory, linked to the increasing level of the obligation. If the threshold was purely administrative, it would have been a fixed amount from the outset. Government recognises that the explanatory memorandum to the Renewables Obligation Order 2005 states, in relation to the inclusion of the mutualisation threshold that:

> *"the expenses of the mutualisation process will outweigh the amounts recovered",*

i.e. that there is an administrative benefit to having a threshold. However, the first half of the same sentence states:

> *"Only shortfalls over a certain level will trigger the mutualisation process because very small shortfalls will not affect certificate prices",*

which supports the Government's view that the level of the threshold, which at the time was set at about 1% of the cost of the scheme, is primarily about the material impact of supplier payment default on confidence in the scheme.

A further point was raised that if the threshold was to be increased, it should be increased in line with inflation, as that would be more in keeping with the original intent of the scheme. However, the original intent when mutualisation was first introduced was to raise the threshold in line with the size of the scheme, which at that time was based on the percentage-renewables target. Government consequently rejects the suggestion that the threshold should be increased in line with inflation.

Question 2 - How and to what extent does the Government's proposal impact any existing commercial arrangements that might exist for the supply or sale of ROCs?

Main messages from responses

Of the 19 respondents who agreed with the proposal to link the mutualisation threshold to the cost of the scheme, 15 (all but 2 of which had an interest in electricity supply) either said there would be no material impacts on existing commercial arrangements or made no comment. Overall, 18 respondents said there would be impacts, with 12 of these (all but 2 of which had an interest in generation) suggesting that the value of ROCs would decrease. Five stated that existing purchase agreements would be impacted due to potentially lower pass-through payments than envisaged when agreements were made.

Other comments, which were made by between one and three respondents, are summarised below:

- Suppliers who are party to fixed-price ROC contracts are at risk.
- The proposal risks the integrity of the ROC market.
- The proposal could undermine the business case for maintaining existing ROC-accredited generating plant.
- ROC prices might rise as generators look to hedge increased risk.
- The proposal may create additional uncertainty for fixed price ROC purchases early in an obligation period – this may reduce ROC value and possibly liquidity.
- The vast majority of ROC power purchase agreements (PPAs) are long term contracts, so no opportunity to renegotiate and find a fair balance.
- Many generators are too small to be able to use ROC trading platforms, and so will find it hard to shield themselves from risk.

Post-consultation response on question 2

As noted in the Government response to question 1, Government recognises that the proposal could have a negative impact on generators' ROC returns but no robust evidence was submitted to support the other concerns raised. Given that the potential impact on ROC prices will be very small in magnitude, notably in comparison to the inter-year variability in the per-ROC recycle amount, Government is not convinced that this action will risk the integrity of the ROC market or lead to the early withdrawal of accredited generating stations from the scheme. Government notes the views of some respondents that there will be increased risk associated with fixed price ROCs but expects the market to adjust in response.

Impact on existing and future arrangements for the supply of ROCs

Government notes the views of some respondents that existing contracts for the future supply of ROCs will be impacted since they were entered into under prevailing scheme arrangements – as noted above the proposed new arrangements could lower the value of these ROCs by up to £0.41 in the event of supplier payment default. However, the Government remains of the view that the changes it is proposing now were foreseeable and restore mutualisation arrangements back to where they were when it was introduced to the advantage of generators. Government notes the benefit its proposal will bring to electricity suppliers and their consumers and is of the view that, on balance, it is justified. It also notes that Ofgem's recent supply licence modification, carried out as part of its Supply Licence Review, should improve financial resilience in the electricity supply sector, thereby reducing the likelihood of RO payment default.

Question 3 - Do you agree with the Government's proposal to implement the new mutualisation arrangements in respect of the 2021/22 obligation year? Please explain your reasoning.

Main messages from responses

A summary of responses to question 3 is as follows:

Response to Question 3	Number of responses
Agree	19
Disagree	17
Unsure, don't know, no comment, response unclear	3

Responses were strongly correlated with respondent type. Of 15 respondents concerned solely with electricity supply, 14 supported the Government's proposal. Conversely, of 19 respondents with an interest in generation, 12 disagreed with the Government's proposal.

Respondents who agreed

Amongst respondents who agreed with the Government's proposal to implement the new mutualisation arrangements in respect of the 2021/22 obligation year, about half stated that they were overdue and should be implemented as soon as possible. Five commented that prompt introduction would be in the interests of consumers. A few respondents requested a prompt decision by Government as the outcome could impact commercial arrangements for the purchase of ROCs.

Respondents who disagreed

Of those who disagreed with the proposed implementation date, 14 said that they didn't agree with the proposed change to mutualisation arrangements and/or thought that Government should instead be tackling supplier payment default (see "Other observations" section below). Seven respondents said that the implementation date should be delayed (by up to 5 years) to give industry time to adjust. Four respondents further said that existing contracts for ROCs could be impacted – one said that existing contracts would need to be re-opened to accommodate the proposed changes but did not provide further details.

Post-consultation decision on question 3

After careful consideration of the consultation responses, Government has decided to proceed with its proposal to implement the new mutualisation arrangements in respect of the 2021/22 obligation year as no robust evidence was submitted to justify changing the proposal. The timing of the proposed changes will enable subsequent transactions for 2021/22 ROCs (i.e. ROCs which have not yet been issued) to take place under new arrangements.

On the calls from some respondents for the implementation of the proposed new arrangement to be delayed, Government is not convinced that markets will be unable to absorb the impacts or adjust commercial arrangements to accommodate ahead of the 2021/22 ROC year – no evidence has been provided to suggest otherwise. Furthermore, any delay would mean that suppliers and their customers would continue to be unduly exposed to the unmet obligations of other suppliers for at least another year, something that Government is keen to avoid. Consequently, it agrees with those respondents who have stated that the proposed new arrangements should be introduced for the 2021/22 obligation year.

Other observations

Some respondents made comments on issues beyond the three specific questions – these are addressed below.

Duration of consultation

Some concern was raised that the consultation period was too short, particularly in light of the fact it was conducted across the holiday period.

Government's view is that it received a good response from a broad range of stakeholders, suggesting that sufficient time was made available on what was a narrow consultation. Furthermore, if the consultation period had been extended, the opportunity to introduce the proposed arrangements ahead of the 2021/22 obligation period would have been missed, with consequential negative impacts on suppliers and their customers. Consequently, Government is of the view that it has acted in reasonable time to ensure the deadline can be met.

Suggestions for addressing the causes of mutualisation

Around two-thirds of all respondents said that more could be done to address the perceived underlying causes of mutualisation. Some expressed the view that it is caused by poorly funded and managed suppliers using the funds collected under the RO as working capital, then failing to fulfil their obligation.

Respondents suggested a number of approaches that could be adopted to lower the risk of suppliers defaulting on significant RO payments either instead of, or in addition to, updating the mutualisation threshold. Broadly speaking, these approaches can be categorised as either regulatory (i.e. they would be implemented via the electricity supply licence), or legislative (implemented via changes to the Renewables Obligation Order).

Fourteen respondents supported a regulatory approach to ensure that energy suppliers are financially fit and responsible. Of these, 8 respondents (split almost equally between those who supported the proposed changes to the mutualisation threshold, and those who disagreed with it) supported requiring suppliers to provide advance guarantees or security of up to 100% of their liability. It was thought this would significantly reduce the impact of supplier default as mutualisation amounts would be smaller. Some thought this would also provide much earlier warning to Ofgem and the market over the risks of supplier default. Suggested measures included using escrow accounts for cash or ROCs, ring-fencing RO revenues, providing bank or parent company guarantees, letters of credit, evidence of contracts to buy ROCs by a certain date etc. Six respondents (most of whom disagreed with the consultation proposals) supported introducing additional (unspecified) measures to allow Ofgem to assess that suppliers were financially fit and responsible. One commented that the Financial Responsibility Principle and Operational Capability Principle which will be introduced into the electricity supply licence through Ofgem's Supplier Licensing Review should be rigorously enforced since they would encourage suppliers to adopt more financially responsible practice which would reduce the likelihood of future default.

Sixteen respondents (the majority of whom disagreed with revising the mutualisation threshold) suggested a legislative approach of requiring more frequent payment/settlement. Monthly, quarterly and six-monthly settlement were all mentioned as ways of addressing the current level of supplier payment default. Some further added that this approach would give Ofgem an early warning of potential supplier failure, thereby providing it with an opportunity for early intervention.

Government's updated view on addressing the causes of mutualisation is given in the next steps section below.

Fixed price certificates

Two respondents suggested that Government should look to bring forward the introduction of fixed price certificates (FPCs) since an FPC-based scheme would require more frequent settlement - in their view, this would alleviate supplier payment default.

In response, Government has no plans for the early introduction of FPCs. However, as noted previously, its updated view on addressing the causes of mutualisation is given in the next steps section below.

Next steps

Subject to parliamentary approval, the Government's proposed changes to RO mutualisation arrangements will be introduced via an amendment to the Renewables Obligation Order 2015, the legislation which underpins the scheme. A draft statutory instrument, which the Government will seek to introduce ahead of the 2021/22 obligation year, is given at Annex B.

The Government also notes the comments of the many respondents who said that it should seek to address the underlying causes of mutualisation. Government has reflected on these comments, and, together with the industry regulator, Ofgem, intends to consult stakeholders on this matter. The consultation will consider both regulatory and legislative based approaches, and will be issued in the next few months.

Annex A – List of respondents

1	Association for Decentralised Energy	21	Ofgem
2	British Hydropower Association	22	Ørsted
3	Brook Green Supply Limited	23	OVO Energy
4	Bulb	24	Pure Planet
5	Centrica	25	Renewable Energy Association
6	Citizens Advice	26	RWE
7	Drax Group plc	27	ScottishPower
8	E.On	28	Scottish Renewables, Solar Trade Association and RenewableUK
9	EDF Energy	29	Shell UK
10	Energy UK	30	SmartestEnergy Ltd
11	ENGIE	31	So Energy
12	Erova Energy	32	Solar Trade Association
13	G-Lec Electrical Ltd	33	Square1 Energy Ltd
14	Good Energy	34	SSE plc
15	ICoSS	35	Statkraft Markets GmbH
16	Igloo Energy	36	Total Gas & Power Ltd
17	Infinis Ltd	37	Toucan Energy
18	Inner Dowsing Wind Farm Ltd & Lynn Wind Farm Ltd	38	Utilita Energy
19	Mississippi Energy Ltd	39	Vattenfall
20	NFPAS Ltd (T/A e-POWER)		

Annex B – Draft SI text

Draft Order laid before Parliament under section 32L(2) of the Electricity Act 1989, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2021 No.

ELECTRICITY, ENGLAND AND WALES

The Renewables Obligation (Amendment) Order 2021

Made	- - - -	***
Coming into force	- -	31st March 2021

The Secretary of State, in exercise of the powers conferred by sections 32, 32A, 32G and 32K of the Electricity Act 1989(**a**), makes the following Order.

The Secretary of State consulted the Gas and Electricity Markets Authority, the National Association of Citizens Advice Bureaux, the Scottish Association of Citizens Advice Bureaux, the electricity suppliers to whom this Order applies and such generators of electricity from renewable sources and other persons as the Secretary of State considered appropriate in accordance with section 32L(1) of the Electricity Act 1989.

In accordance with section 32L(2) of the Electricity Act 1989, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Renewables Obligation (Amendment) Order 2021 and comes into force on 31st March 2021.

(2) This Order extends to England and Wales only.

Amendment of the Renewables Obligation Order 2015

2. The Renewables Obligation Order 2015(**b**) is amended in accordance with articles 3 and 4.

(a) 1989 c. 29. Sections 32 to 32M were substituted by section 37 of the Energy Act 2008 (c. 32). Section 32L(1) has been amended by S.I. 2014/631. There are other amendments to sections 32 to 32M which are not relevant.

(b) S.I. 2015/1947, to which there are amendments not relevant to this Order

Amendment to article 72 (determining whether a relevant shortfall has occurred)

3.—(1) Article 72 is amended as follows.

(2) For paragraph (3), substitute—

“(3) A shortfall in relation to a relevant period is a relevant shortfall if it is equal to, or in excess of, the mutualisation threshold for that period.”.

(3) After paragraph (3), insert—

“(4) The mutualisation threshold for a relevant period is determined as 1% of A x B, rounded to the nearest £100,000 with £50,000 being rounded upwards, where—

(i) A is the total obligation for the relevant period determined under article 12;

(ii) B is the buy-out price for the relevant period referred to in article 67(4).”.

Amendment to article 86 (functions of the Authority)

4.—(1) Article 86 is amended as follows.

(2) After paragraph (1)(d), insert—

“(da) calculating and publishing the mutualisation threshold (referred to in article 72(4)) for each obligation period—

(i) in the case of the obligation period beginning on 1st April 2021, as soon as reasonably practicable after the date on which the Renewables Obligation (Amendment) Order 2021 comes into force;

(ii) in the case of any subsequent obligation period, before the start of that obligation period;”.

Name

Minister of State for Business, Energy and Clean Growth

Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Renewables Obligation Order 2015 (the “2015 Order”).

The 2015 Order imposes on all electricity suppliers licensed under the Electricity Act 1989 which supply electricity in England and Wales, an obligation (the “renewables obligation”) to produce a certain number of renewables obligation certificates (“ROCs”) in respect of each megawatt hour of electricity they supply to customers in England and Wales during the periods known as “obligation periods”. Suppliers can also make a cash payment in lieu of each ROC as an alternative. Each obligation period runs from 1st April to 31st March.

The renewables obligation is administered by the Gas and Electricity Markets Authority which issues ROCs to accredited renewable electricity generators based on their output. These certificates are sold to electricity suppliers with or without the associated renewable electricity.

The renewables obligation has a mechanism known as mutualisation which seeks to recover a shortfall of payments from suppliers if there is a payment default and the level of default is equal to or in excess of a threshold of £15,400,000. This Order provides for the mutualisation threshold to be updated each year and linked to the annual cost of the scheme to suppliers. This will be set at 1% of the scheme’s total annual cost rounded to the nearest £100,000.

A full impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sector is foreseen. An explanatory memorandum is available alongside this Order on www.legislation.gov.uk.

This publication is available from: www.gov.uk/government/consultations/renewables-obligation-changes-to-mutualisation-arrangements

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