
D R A F T S T A T U T O R Y I N S T R U M E N T S

2012 No.

ELECTRICITY

The Renewables Obligation (Amendment) Order 2012

Made - - - -

Coming into force - -

1st April 2013

This Order is made by the Secretary of State in exercise of the powers conferred by sections 32 to 32M of the Electricity Act 1989(a) (“the 1989 Act”).

The Secretary of State has had regard to those matters stated in section 32D(4) of that Act.

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

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

Accordingly the Secretary of State makes the following Order:

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Renewables Obligation (Amendment) Order 2012 and comes into force on 1st April 2013.

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

(3) In this Order, “the 2009 Order” means the Renewables Obligation Order 2009(d).

Amendments to article 2 of the 2009 Order (interpretation)

2.—(1) Article 2 of the 2009 Order(e) is amended as follows.

(2) In paragraph (1), before the definition of “the Act” insert—

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- (a) 1989 c.29, sections 32 to 32M were substituted by section 37 of the Energy Act 2008 (c.32) for sections 32 to 32C. Section 32M(1) was amended by article 2 of S.I. 2011/984.
- (b) Section 32L(1) of the 1989 Act refers to “the Authority”, this is defined in section 111(1) as inserted by paragraph 40(a) of Schedule 6 to the Utilities Act 2000 (c.27).
- (c) Section 32L(1) of the 1989 Act refers to “the Council”, this is defined in section 111(1) as substituted by section 30(4)(b) of the Consumers, Estate Agents and Redress Act 2007 (c.17).
- (d) S.I. 2009/785 as amended by S.I. 2010/1107 and S.I. 2011/984.
- (e) Article 2 was amended by article 3 of S.I. 2011/984.

““2013/15 capacity” means—

- (a) in relation to a generating station—
 - (i) accredited on or before 31st March 2013, and
 - (ii) which is not registered under article 58ZA as a grace period generating station any capacity added to the station no earlier than 1st April 2013 and no later than 31st March 2015;
- (b) in relation to a generating station which is registered under article 58ZA as a grace period generating station, any capacity which—
 - (i) is added to the station no earlier than 1st April 2013 and no later than 31st March 2015, and
 - (ii) does not form part of the capacity of the station as accredited;
- (c) in relation to a generating station—
 - (i) which was not accredited on or before 31st March 2013, and
 - (ii) which was accredited on or before 31st March 2015the capacity of the station as accredited, together with any additional capacity added to the station no earlier than 1st April 2013 and no later than 31st March 2015;

“2015/16 capacity” means—

- (a) in relation to a generating station accredited on or before 31st March 2015, any capacity added to the station no earlier than 1st April 2015 and no later than 31st March 2016;
- (b) in relation to a generating station—
 - (i) which was not accredited on or before 31st March 2015, and
 - (ii) which was accredited on or before 31st March 2016the capacity of the station as accredited, together with any additional capacity added to the station no earlier than 1st April 2015 and no later than 31st March 2016;

“2016/17 capacity” means—

- (a) in relation to a generating station accredited on or before 31st March 2016, any capacity added to the station no earlier than 1st April 2016 and no later than 31st March 2017;
- (b) in relation to a generating station—
 - (i) which was not accredited on or before 31st March 2016, and
 - (ii) which was accredited on or before 31st March 2017the capacity of the station as accredited, together with any additional capacity added to the station no earlier than 1st April 2016 and no later than 31st March 2017;”

(3) In paragraph (1), for the definition of “energy crops” substitute—

““energy crops” means a plant crop—

- (a) planted after 31st December 1989,
- (b) which is grown primarily for the purpose of being used as fuel, and
- (c) which is one of the following—
 - (i) *Acer pseudoplatanus* (also known as sycamore);
 - (ii) *Alnus* (also known as alder);
 - (iii) *Betula* (also known as birch);
 - (iv) *Castanea sativa* (also known as sweet chestnut);

- (v) *Corylus avellana* (also known as hazel);
- (vi) *Fraxinus excelsior* (also known as ash);
- (vii) *Miscanthus* (a perennial grass);
- (viii) *Panicum* (a perennial grass);
- (vix) *Phalaris* (a perennial grass);
- (x) *Populus* (also known as poplar);
- (xi) *Salix* (also known as willow);
- (xii) *Tilia cordata* (also known as lime);”

(4) In paragraph (1), before the definition of “preliminary accreditation” insert—

““pre-2013 capacity” means—

- (a) in relation to a generating station—
 - (i) accredited on or before 31st March 2013, and
 - (ii) which is not registered under article 58ZA as a grace period generating stationthe capacity of the station as accredited, together with any additional capacity added to the station on or before 31st March 2013;
- (b) in relation to a generating station which is registered under article 58ZA as a grace period generating station, the capacity of the station as accredited;”

(5) After paragraph (4) insert—

“(4A) Where electricity is generated by a generating station in part using one of the types of capacity specified in paragraph (4B) (“the relevant capacity”) and the amount of electricity so generated is not measured separately from electricity generated otherwise than by using that type of capacity, the provisions of this Order apply as if the electricity generated by the generating station using the relevant capacity is the appropriate percentage of the electricity generated by the station (the appropriate percentage for these purposes being the relevant capacity expressed as a percentage of the total installed capacity of the station as at the date of generation of the electricity).

(4B) The types of capacity specified in this paragraph are—

- (i) pre-2013 capacity;
- (ii) 2013/15 capacity;
- (iii) 2015/16 capacity;
- (iv) 2016/17 capacity.”

Amendments to article 4 (biomass and fuels which are to be treated as biomass)

3. For article 4(1) of the 2009 Order substitute—

“(1) In this Order, “biomass” means—

- (a) fuel falling within paragraph (1A),
- (b) fuel falling within paragraph (1B), and
- (c) fossil derived bioliquid.

(1A) Fuel falls within this paragraph if—

- (a) at least 90 per cent of its energy content is derived from relevant material (that is to say, material which is, or is derived directly or indirectly from, plant matter, animal matter, fungi or algae), and
- (b) any fossil fuel which forms part of the fuel is present following a process—
 - (i) to which the relevant material has been subject, and
 - (ii) 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.

(1B) Fuel falls within this paragraph if—

- (a) at least 90 per cent of its energy content is derived from relevant material (that is to say, material which is, or is derived directly or indirectly from, plant matter, animal matter, fungi or algae),
- (b) it is waste, and
- (c) any fossil fuel forming part of the fuel was not added to the fuel with a view to the fossil fuel being used as a fuel.”

Amendments to article 13 (further provision in relation to the production of renewables obligation certificates)

4.—(1) Article 13 of the 2009 Order is amended as follows.

(2) For paragraph (3) substitute—

“(3) Subject to paragraph (5), no more than 4 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 from bioliquid.”

(3) Omit paragraph (4).

(4) For paragraph (5) substitute—

“(5) The limit set out in paragraph (3) does not apply to the production of renewables obligation certificates issued in respect of electricity—

- (a) generated by advanced ACT, energy from waste with CHP or standard ACT; or
- (b) generated before 1st April 2013.”

(5) Omit paragraph (6).

(6) For paragraph (8) substitute—

“(8) In this article—

“advanced ACT”, “energy from waste with CHP” and “standard ACT” have the same meaning as in Schedule 2.”

Amendments to article 22 (circumstances in which no ROCs are to be issued in respect of electricity generated from renewable sources)

5. In paragraph (1) of article 22 of the 2009 Order(a) omit each reference to “or fossil derived bioliquid”.

Circumstances in which no ROCs are to be issued in respect of electricity generated by a grace period generating station

6. After article 22B of the 2009 Order(b) insert—

“Circumstances in which no ROCs are to be issued in respect of electricity generated by a grace period generating station

22C.—(1) No ROCs are to be issued in respect of any electricity generated by a grace period generating station before the date on which written notification was provided by the Authority under article 58(9)(c).

(2) In this article, “grace period generating station” means a generating station which is registered by the Authority under article 58ZA as a grace period generating station.”

(a) Article 22 was amended by article 9 of S.I. 2011/984.

(b) Article 22B was inserted by article 10 of S.I. 2011/984.

Amendments to article 25 (calculating a generating station's renewable output)

- 7.—(1) Article 25 of the 2009 Order is amended as follows.
- (2) In paragraph (2)(a)(ii)(aa), for “by virtue of sub-paragraphs (bb) to (dd)” substitute “by virtue of sub-paragraph (bb)”.
- (3) For paragraph (2)(a)(ii)(bb) substitute—
- “(bb) any ineligible renewable sources;”
- (4) Omit paragraphs (2)(a)(ii)(cc) and (2)(a)(ii)(dd).
- (5) In paragraph (3)(a)(i), for “by virtue of paragraphs (ii) to (iv)” substitute “by virtue of paragraph (ii)”.
- (6) For paragraph (3)(a)(ii) substitute—
- “(ii) any ineligible renewable sources; and”
- (7) Omit paragraphs (3)(a)(iii) and (3)(a)(iv).
- (8) In paragraph (3)(b)(i), for “by virtue of paragraphs (ii) to (iv)” substitute “by virtue of paragraph (ii)”.
- (9) For paragraph (3)(b)(ii) substitute—
- “(ii) any ineligible renewable sources.”
- (10) Omit paragraphs (3)(b)(iii) and (3)(b)(iv).
- (11) In paragraph (6), before the definition of “input electricity” insert—
- ““ineligible renewable sources”, in relation to a generating station, means—
- (a) any of those renewable sources which is Solid Recovered Fuel (other than Solid Recovered Fuel which constitutes biomass);
- (b) any of those renewable sources which is a liquid fuel—
- (i) produced by means of pyrolysis,
- (ii) having 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
- (iii) used by pre-2013 capacity of the station to generate electricity;
- (c) except in the case of an excepted generating station, any of those renewable sources which is a gaseous fuel—
- (i) produced by means of gasification or pyrolysis,
- (ii) having 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
- (iii) used by pre-2013 capacity of the station to generate electricity; and
- (d) any of those renewable sources which is a gas—
- (i) formed by the digestion of material in a landfill, and
- (ii) used by 2013/15 capacity, 2015/16 capacity or 2016/17 capacity of the station to generate electricity.”

Amendment to article 26 (renewable output of a qualifying combined heat and power generating station)

8. For paragraphs (2) to (4) of article 26 of the 2009 Order substitute—
- “(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) is in part composed);
 - (bb) any ineligible renewable sources,
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) is in part composed);
 - (ii) any ineligible renewable sources; 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) is in part composed);
 - (ii) any ineligible renewable sources.”.

Amendments to article 27 (the amount of electricity to be stated in each ROC)

9. In article 27 of the 2009 Order, for paragraphs (2) to (5) substitute—

“(2) The amount of electricity to be stated in each ROC depends on—

- (a) the way in which the electricity in respect of which it is to be issued has been generated, and
- (b) the type of capacity used to generate the electricity in respect of which it is to be issued.

(3) Subject to articles 28 to 32, the amount of electricity to be stated in each ROC is to be determined in accordance with paragraphs (4) to (9).

(4) Each ROC to be issued in respect of electricity generated—

- (a) using pre-2013 capacity, and
- (b) 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) Each ROC to be issued in respect of electricity generated—

- (a) using 2013/15 capacity, and
- (b) in a way described in the first column of Part 5 of Schedule 2

must state the amount of electricity which corresponds to that description in the second column of that Part of that Schedule.

(6) Each ROC to be issued in respect of electricity generated—

- (a) using 2015/16 capacity, and
- (b) in a way described in the first column of Part 5 of Schedule 2

must state the amount of electricity which corresponds to that description in the third column of that Part of that Schedule.

(7) Each ROC to be issued in respect of electricity generated—

- (a) using 2016/17 capacity, and
- (b) in a way described in the first column of Part 5 of Schedule 2

must state the amount of electricity which corresponds to that description in the fourth column of that Part of that Schedule.

(8) The amount of electricity to be stated in each ROC to be issued in respect of electricity generated—

- (a) using pre-2013 capacity, and
- (b) in a way which is not described in the first column of Part 2 of Schedule 2

is 1 megawatt hour.

(9) The amount of electricity to be stated in each ROC to be issued in respect of electricity generated—

- (a) using 2013/15 capacity, 2015/16 capacity or 2016/17 capacity, and
- (b) in a way which is not described in the first column of Part 5 of Schedule 2

is 1 megawatt hour.”

Amendments to article 28 (qualifying combined heat and power generating stations)

10.—(1) Article 28 of the 2009 Order is amended as follows.

(2) For paragraphs (1) and (2) of article 28 of the 2009 Order substitute—

“(1) This article applies to electricity—

- (a) generated by a qualifying combined heat and power generating station, and
- (b) generated using—
 - (i) pre-2013 capacity of the station, or
 - (ii) that part of any 2013/15 capacity of the station in respect of which a declaration has been made under article 58B.

(2) Subject to articles 29 to 32, the amount of electricity to be stated in each ROC to be issued is—

- (a) in respect of the relevant proportion of the electricity to which this article applies—
 - (i) in the case of electricity generated in a way described as “biomass conversion” in Schedule 2, [2/3rds] of a megawatt hour;
 - (ii) in the case of electricity generated in a way described as “dedicated biomass” in Schedule 2, 1/2 of a megawatt hour;
 - (iii) in the case of electricity generated in a way described as “energy crops conversion” in Schedule 2, [1/2] of a megawatt hour;
 - (iv) in the case of electricity generated in a way described as “enhanced co-firing of biomass” in Schedule 2, and the fossil fuel and regular biomass referred to are burnt in separate boilers or engines, [2/3rds] of a megawatt hour;
 - (v) in the case of electricity generated in a way described as “enhanced co-firing of energy crops” in Schedule 2, and the fossil fuel and regular biomass referred to are burnt in separate boilers or engines, [1/2] of a megawatt hour;
 - (vi) in the case of electricity generated in a way described as “standard co-firing of biomass” in Schedule 2, and the fossil fuel and regular biomass referred to are burnt in separate boilers or engines, 1 megawatt hour;
 - (vii) in the case of electricity generated in a way described as “standard co-firing of energy crops” in Schedule 2, and the fossil fuel and regular biomass referred to are burnt in separate boilers or engines, 2/3rds of a megawatt hour; and

- (b) in respect of the remainder of the electricity to which this article applies, to be determined in accordance with article 27(4), (5), (8) and (9).”
- (3) Omit paragraph (3).

Amendment to article 29 (microgenerators)

11. For article 29(2) of the 2009 Order substitute—

“(2) Subject to article 32, the amount of electricity to be stated in each ROC to be issued in respect of electricity generated—

- (a) by a generating station to which this article applies, and
- (b) using—
 - (i) pre-2013 capacity, or
 - (ii) 2013/15 capacity

is 0.5 megawatt hours.

(3) Subject to article 32, the amount of electricity to be stated in each ROC to be issued in respect of electricity generated—

- (a) by a generating station to which this article applies, and
- (b) using 2015/16 capacity

is 0.53 megawatt hours.

(4) Subject to article 32, the amount of electricity to be stated in each ROC to be issued in respect of electricity generated—

- (a) by a generating station to which this article applies, and
- (b) using 2016/17 capacity

is 0.56 megawatt hours.”

Amendments to article 30 (generating stations which were accredited as at 11th July 2006)

12.—(1) Article 30 of the 2009 Order is amended as follows.

- (2) In paragraph (2), for “article 27(4) and (5)” substitute “article 27(4) to (9)”.
- (3) In paragraph (5), for “article 27(4) and (5)” substitute “article 27(4) to (9)”.

Amendments to article 30A (offshore wind generating stations using relevant wind turbines)

13.—(1) Article 30A of the 2009 Order(a) is amended as follows.

- (2) In paragraph (2), for “article 27(4)” substitute “article 27(4) to (9)”.
- (3) In paragraph (4), for “0.5 megawatt hours” substitute “2/3rds of a megawatt hour”.
- (4) In paragraph (7), for “no earlier than 1st April 2010 and no later than 31st March 2014” substitute “no earlier than 12th July 2006 and no later than 31st March 2010”.

Wave and tidal stream generating stations

14. After article 30A of the 2009 Order insert—

“Wave and tidal stream generating stations

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

- (a) which generates electricity from the capture of the energy created from—

(a) Article 30A was inserted by article 9 of S.I. 2010/1107 and amended by article 11 of S.I. 2011/984.

- (i) the motion of naturally occurring tidal currents in water, or
 - (ii) the motion of naturally occurring waves on water, and
 - (b) which generates electricity in whole or in part using generating capacity registered under article 58C.
- (2) Subject to paragraphs (3) to (5), the amount of electricity to be stated in each ROC 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) to (9).
- (3) Subject to paragraphs (4) and (5), the amount of electricity to be stated in each ROC issued in respect of electricity generated by a generating station to which both this article and article 30 apply is to be determined in accordance with article 30.
- (4) Where electricity generated by a generating station to which this article applies is generated using 5-ROC capacity, the amount of electricity to be stated in each ROC issued in respect of that electricity is 0.2 megawatt hours.
- (5) Where the electricity generated by a generating station to which this article applies is generated in part using 5-ROC capacity, but the amount of electricity so generated is not measured separately from electricity generated otherwise than by using that capacity, the percentage of the electricity which is to be treated (for the purposes of paragraph (4)) as having been generated using 5-ROC capacity is the 5-ROC capacity expressed as a percentage of the total installed capacity of the station as at the date of generation of the electricity.
- (6) In this article, “5-ROC capacity”, in relation to a generating station, means capacity registered by the Authority under article 58C as 5-ROC capacity of the generating station.
- (7) This article is subject to article 32.”

Amendments to article 31 (generating stations which were accredited, or held preliminary accreditation, as at 31st March 2009)

- 15.—(1) Article 31 of the 2009 Order is amended as follows.
- (2) In paragraph (1)(c), for “articles 28 to 30” substitute “articles 28 to 30B”.
 - (3) In paragraph (2)(d), for “articles 28 to 30” substitute “articles 28 to 30B”.
 - (4) In paragraph (3), for “article 27(4) and (5)” substitute “article 27(4) to (9)”.
 - (5) In paragraph (6), for “article 27(4) and (5)” substitute “article 27(4) to (9)”.

Amendments to article 33 (review of banding provisions)

- 16.—(1) Article 33 of the 2009 Order is amended as follows.
- (2) In paragraph (3)(c)(ii), for “Part 2” substitute “Part 5”.
 - (3) In paragraph (3)(e), for “Part 2” substitute “Part 5”.
 - (4) In paragraph (3)(f) omit “and (4)”.

Amendments to article 54 (information to be provided to the Authority where electricity is generated from biomass or fossil derived bioliquid)

- 17.—(1) Article 54 of the 2009 Order(a) is amended as follows.
- (2) In the heading, omit “or fossil derived bioliquid”.
 - (3) At the beginning of article 54(3)(j) of the 2009 Order, insert “where the biomass was not a bioliquid,”.
 - (4) Omit paragraph (7).

(a) Article 54 was amended by article 13 of S.I. 2010/1107 and by article 12 of S.I. 2011/984.

Amendments to article 54A (bioliquid sustainability audit report)

18.—(1) Article 54A of the 2009 Order^(a) is amended as follows.

(2) At the end of paragraph (3)(d) omit “and”.

(3) At the end of paragraph (3)(e) insert “and”.

(4) After paragraph (3)(e) insert—

“(f) identify whether the bioliquid was certified under an environmental quality assurance scheme, and if so—

(i) the name of the scheme, and

(ii) whether the European Commission has adopted a decision under article 17(4) of the Renewables Directive in respect of the scheme;

(g) identify, where the bioliquid was not derived from waste or residue and the actual value method or the mixed value method was used for the purpose of demonstrating that the bioliquid meets the greenhouse gas emission criteria—

(i) whether a restored degraded land bonus was used for the purpose of demonstrating that the bioliquid meets the greenhouse gas emission criteria, and

(ii) whether an emission saving from soil carbon accumulation via improved agricultural management was taken into account for the purpose of demonstrating that the bioliquid meets the greenhouse gas emission criteria.”

(5) For paragraph (8) substitute—

“(8) In this article—

“actual value method” has the same meaning as in Schedule A1;

“emission saving from soil carbon accumulation via improved agricultural management” has the same meaning as in Part C of Annex 5 to the Renewables Directive;

“environmental quality assurance scheme” has the same meaning as in article 54;

“mixed value method” has the same meaning as in Schedule A1;

“relevant sustainability information”, in relation to a consignment of bioliquid, means the sustainability information submitted by the operator of the generating station in respect of the consignment;

“restored degraded land bonus” means the bonus referred to in paragraphs 7 and 8 of Part C of Annex 5 to the Renewables Directive.”

Amendments to article 58 (preliminary accreditation and accreditation of generating stations)

19. For article 58(10) of the 2009 Order^(b) substitute—

“(10) In providing written notification under paragraph (9), the Authority must specify—

(a) in the case of the grant or withdrawal of preliminary accreditation, the date on which the grant or withdrawal is to take effect;

(b) in the case of the grant of accreditation, the date on which the grant of accreditation is to take effect (which in the case of a generating station registered under article 58ZA as a grace period generating station is 31st March 2013);

(c) in the case of the withdrawal of accreditation, the date on which the withdrawal is to take effect;

^(a) Article 54A was inserted by article 13 of S.I. 2011/984.

^(b) Article 58(2)(a) was amended by article 14 of S.I. 2010/1107.

- (d) where applicable, the date on which any conditions attached to the preliminary accreditation or accreditation are to take effect.”

Registration as a grace period generating station

20. After article 58 of the 2009 Order insert—

“Registration as a grace period generating station

58ZA.—(1) This article applies to a generating station in respect of which an application for accreditation is made before 1st October 2013.

(2) The person making the application for accreditation of a generating station to which this article applies, may include in their application a request for the generating station to be registered under this article as a grace period generating station.

(3) An application which includes a request for the generating station to be registered as a grace period generating station must be accompanied by—

- (a) the documents specified in paragraph (4)(a), (b) and (c),
- (b) the documents specified in paragraph (4)(d), (e) and (f), or
- (c) the documents specified in paragraph (4)(a), (b), (d), (e) and (g).

(4) The documents specified in this paragraph are—

- (a) a copy of an agreement with a network operator for the making of a connection between the generating station and a transmission system or distribution system—
 - (i) which is for the purpose of enabling electricity to be conveyed from the generating station to that system, and
 - (ii) which requires the connection to be made on or before 31st March 2013;
- (b) a letter from a network operator who is a party to the agreement referred to in sub-paragraph (a) confirming that—
 - (i) the connection referred to in sub-paragraph (a) was not made on or before 31st March 2013,
 - (ii) the connection has since been made, and
 - (iii) to the best of the network operator’s knowledge and belief, the failure to make the connection on or before 31st March 2013 was not due to any action or inaction by—
 - (aa) the operator of the generating station, or
 - (bb) any person who arranged for the construction of the generating station;
- (c) a declaration made in writing by the applicant that, to the best of the applicant’s knowledge and belief, the generating station would have been commissioned on or before 31st March 2013 if the connection referred to in sub-paragraph (a) had been made on or before 31st March 2013;
- (d) a copy of an agreement for the carrying out of radar works, which requires the radar works to be completed on or before 31st March 2013;
- (e) a letter from a person responsible under the agreement referred to in sub-paragraph (d) for the carrying out of the radar works, confirming that—
 - (i) the radar works were not completed on or before 31st March 2013,
 - (ii) the radar works have since been completed, and
 - (iii) to the best of that person’s knowledge and belief, the failure to complete the radar works on or before 31st March 2013 was not due to any action or inaction by—
 - (aa) the operator of the generating station, or
 - (bb) any person who arranged for the construction of the generating station;

- (f) a declaration made in writing by the applicant that, to the best of the applicant's knowledge and belief, the generating station would have been commissioned on or before 31st March 2013 if the radar works referred to in sub-paragraph (d) had been completed on or before 31st March 2013;
 - (g) a declaration made in writing by the applicant that, to the best of the applicant's knowledge and belief, the generating station would have been commissioned on or before 31st March 2013 if—
 - (i) the connection referred to in sub-paragraph (a) had been made on or before 31st March 2013, and
 - (ii) the radar works referred to in sub-paragraph (d) had been completed on or before 31st March 2013.
- (5) Where an application for accreditation of a generating station to which this article applies includes a request for registration of the generating station as a grace period generating station, the Authority must not register the generating station under this article as a grace period generating station unless—
- (a) the Authority also decides to grant the application for accreditation of the generating station, and
 - (b) the Authority is satisfied that the application complies with the requirements of paragraph (3).
- (6) Where paragraph (7) applies in relation to the registration of a generating station as a grace period generating station, and the Authority considers it appropriate to do so, the Authority may cancel the registration in question.
- (7) This paragraph applies where the Authority has reason to believe that a decision to register a generating station as a grace period generating station was based on documents that are incorrect in a material particular.
- (8) The Authority must notify the applicant in writing of—
- (a) its decision on a request to register the generating station as a grace period generating station;
 - (b) any cancellation of registration of the generating station as a grace period generating station.
- (9) The written notification under paragraph (8)(a) must be provided by the Authority at the same time as the written notification under article 58(9) of its decision on the application for accreditation of the generating station.
- (10) For the purposes of this Order, a generating station registered as a grace period generating station is to be treated as if it were accredited on 31st March 2013.
- (11) In this article—
- “network operator” means a transmission licence holder or a distribution licence holder; and
 - “radar works” means—
 - (a) the construction of a radar station,
 - (b) the installation of radar equipment, or
 - (c) the carrying out of modifications to a radar station or to radar equipment.”

Generating stations opting for the CHP uplift and Registration of wave and tidal stream capacity

21. After article 58A of the 2009 Order(a) insert—

(a) Article 58A was inserted by article 15 of S.I. 2011/984.

Generating stations opting for the CHP uplift

“58B.—(1) This article applies to a qualifying combined heat and power generating station generating electricity using 2013/15 capacity.

(2) The operator of a generating station to which this article applies may declare to the Authority in writing that support will not be given under any relevant financial scheme for heat generated by the 2013/15 capacity of the station, or by such part of the 2013/15 capacity of the station as is identified in the declaration.

(3) The declaration cannot be withdrawn.

(4) In this article, “relevant financial scheme”, in relation to a generating station, means a scheme of financial incentives which the Secretary of State establishes, or for the administration of which the Secretary of State makes arrangements, in exercise of the power in section 100(1) of the Energy Act 2008(a).

Registration of wave and tidal stream capacity

58C.—(1) This article applies to a generating station which—

- (a) is accredited,
- (b) generates electricity from the capture of the energy created from—
 - (i) the motion of naturally occurring tidal currents in water, or
 - (ii) the motion of naturally occurring waves on water, and
- (c) is not a microgenerator.

(2) The operator of a generating station to which this article applies may apply to the Authority in writing for all or part of the capacity of the station to be registered under this article as 5-ROC capacity of the station (“the application capacity”).

(3) Subject to paragraph (4), where an application is made under paragraph (2) the Authority must register the application capacity under this article as 5-ROC capacity of the application station if it is satisfied that—

- (a) the whole of the application capacity is in commercial operation, and
- (b) none of the application capacity was in commercial operation before 1st April 2012.

(4) The Authority must not register the application capacity if it would cause the total amount of capacity registered under this article as 5-ROC capacity of the application station to exceed 30 megawatts.

(5) The Authority must notify the operator of the generating station in writing of its decision on an application to register capacity under this article.

(6) In providing written notification under paragraph (5), the Authority must specify—

- (a) the total amount of capacity registered under this article as 5-ROC capacity of the application station, and
- (b) where applicable, the date on which the registration of the application capacity took effect.

(7) In this article, “application station”, in relation to an application to register capacity under this article as 5-ROC capacity, means the generating station to which the application relates.”

Amendments to Part 1 of Schedule 2 (interpretation)

22.—(1) Paragraph (1) of Part 1 of Schedule 2 to the 2009 Order(b) is amended as follows.

(a) 2008 c.32.

(b) Part 1 of Schedule 2 was amended by article 16 of S.I. 2010/1107.

(2) At the appropriate place insert—

““ACT fuel” means a liquid or gaseous fuel which is produced from—

- (i) waste or biomass by means of gasification or pyrolysis, or
- (ii) gas, where the gas was produced from waste or biomass by means of gasification or pyrolysis;”

““advanced ACT” means—

- (a) electricity generated by an internal combustion engine using ACT fuel, and
- (b) electricity generated using the heat from an internal combustion engine, where the internal combustion engine is using ACT fuel;”

““biomass conversion” means electricity generated—

- (a) from regular biomass,
- (b) by a former fossil fuel generating station, and
- (c) in a month in which the generating station generates electricity only from regular biomass or only from biomass;”

““energy crops conversion” means electricity generated—

- (a) from energy crops,
- (b) by a generating station which is a former fossil fuel generating station, and
- (c) in a month in which the generating station generates electricity only from energy crops or only from biomass;”

““enhanced co-firing of biomass” means electricity generated from regular biomass in a month in which—

- (a) the generating station generates electricity partly from fossil fuel and partly from renewable sources, and
- (b) the energy content of the biomass used by the station to generate electricity is at least 15% of the energy content of all of the energy sources used by that station to generate electricity during that month;”

““enhanced co-firing of energy crops” means electricity generated from energy crops in a month in which—

- (a) the generating station generates electricity partly from fossil fuel and partly from renewable sources, and
- (b) the energy content of the biomass used by the station to generate electricity is at least 15% of the energy content of all of the energy sources used by that station to generate electricity during that month;”

““former fossil fuel generating station” means a generating station—

- (a) which has, in any 6 month period since it was first commissioned, generated electricity wholly or partly from fossil fuel, and
- (b) where the energy content of the fossil fuel used by the station to generate electricity was more than 15% of the energy content of all of the energy sources used by that station to generate electricity during that 6 month period;”

““standard ACT” means electricity generated from ACT fuel other than—

- (a) electricity generated by an internal combustion engine, or
- (b) electricity generated using the heat from an internal combustion engine, where the internal combustion engine is using ACT fuel;”

““standard co-firing of biomass” means electricity generated from regular biomass in a month in which—

- (a) the generating station generates electricity partly from fossil fuel and partly from renewable sources, and

- (b) the energy content of the biomass used by the station to generate electricity is less than 15% of the energy content of all of the energy sources used by that station to generate electricity during that month;”
- ““standard co-firing of energy crops” means electricity generated from energy crops in a month in which—
- (a) the generating station generates electricity partly from fossil fuel and partly from renewable sources, and
- (b) the energy content of the biomass used by the station to generate electricity is less than 15% of the energy content of all of the energy sources used by that station to generate electricity during that month;”
- (3) Omit the definitions of “co-firing of biomass”, “co-firing of biomass with CHP”, “co-firing of energy crops” and “co-firing of energy crops with CHP”.
- (4) For the definition of “dedicated biomass” substitute—
 - ““dedicated biomass” means electricity generated from regular biomass by a generating station—
 - (a) which is not a former fossil fuel generating station, and
 - (b) in a month in which it generates electricity only from regular biomass or only from biomass;”
- (5) Omit the definition of “dedicated biomass with CHP”.
- (6) For the definition of “dedicated energy crops” substitute—
 - ““dedicated energy crops” means electricity generated from energy crops by a generating station—
 - (a) which is not a former fossil fuel generating station, and
 - (b) in a month in which the generating station generates electricity only from energy crops or only from biomass;”
- (7) Omit the definition of “dedicated energy crops with CHP”.

Amendments to Part 2 of Schedule 2 (amount of electricity to be stated in ROCs generally)

23. For Part 2 of Schedule 2 to the 2009 Order substitute—

“PART 2 Articles 27(4) and (8) AMOUNT OF ELECTRICITY TO BE STATED IN ROCs ISSUED FOR PRE-2013 CAPACITY	
<i>Generation type</i>	<i>Amount of electricity to be stated in a ROC issued for electricity generated using pre-2013 capacity</i>
Electricity generated from landfill gas	4 megawatt hours
Electricity generated from sewage gas	2 megawatt hours
Standard co-firing of biomass	
Biomass conversion	
Energy from waste with CHP	
Enhanced co-firing of biomass	
Geopressure	
Hydro-electric	1 megawatt hour
Onshore wind	
Standard co-firing of energy crops	
Standard gasification	
Standard pyrolysis	

Dedicated biomass	
[Energy crops conversion]	2/3rds of a megawatt hour
[Enhanced co-firing of energy crops]	
AD	
Advanced gasification	
Advanced pyrolysis	
Dedicated energy crops	
Geothermal	
Offshore wind	1/2 of a megawatt hour
Solar photovoltaic	
Tidal impoundment – tidal barrage	
Tidal impoundment – tidal lagoon	
Tidal-stream	
Wave ”	

Amount of electricity to be stated in ROCs issued for 2012/15 capacity, 2015/16 capacity or 2016/17 capacity

24. After Part 4 of Schedule 2 to the 2009 Order insert—

“PART 5 Articles 27(5) to (7), (9) and 33(3)

**AMOUNT OF ELECTRICITY TO BE STATED IN ROCs ISSUED FOR
2013/15 CAPACITY, 2015/16 CAPACITY OR 2016/17 CAPACITY**

<i>Generation type</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued for electricity generated using 2013/15 capacity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued for electricity generated using 2015/16 capacity</i>	<i>Amount of electricity (in megawatt hours) to be stated in a ROC issued for electricity generated using 2016/17 capacity</i>
AD	0.5	0.53	0.56
Advanced ACT	0.5	0.53	0.56
Biomass conversion	1	1	1
Dedicated biomass	0.67	0.67	0.71
Dedicated energy crops	0.5	0.53	0.56
Electricity generated from sewage gas	2	2	2
Energy crops conversion	[0.67]	[0.67]	[0.67]
Energy from waste with CHP	2	2	2
Enhanced co-firing of biomass	1	1	1
Enhanced co-firing of energy crops	[0.67]	[0.67]	[0.67]
Geopressure	1	1	1
Geothermal	0.5	0.53	0.56
Hydro-electric	2	2	2
Offshore wind	0.5	0.53	0.56
Onshore wind	1.11	1.11	1.11
Solar photovoltaic	0.5	0.53	0.56

Standard ACT	2	2	2
Standard co-firing of biomass	2	2	2
Standard co-firing of energy crops	1	1	1
Tidal impoundment – tidal barrage	0.5	0.53	0.56
Tidal impoundment – tidal lagoon	0.5	0.53	0.56
Tidal stream(a)	0.5	0.5	0.5
Wave(b)	0.5	0.5	0.5”

Transitionals

25. Nothing in this Order is to affect—

- (a) the issue and revocation of a renewables obligation certificate in respect of electricity generated before 1st April 2013, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to such issue or revocation, under the 2009 Order;
- (b) any obligations or requirements imposed on an operator of a generating station or some other person in respect of the obligation period ending on 31st March 2013, and anything which falls to be done or determined (whether by the generator or some other person) in relation to any such obligations and requirements, under the 2009 Order;
- (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, under the 2009 Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Renewables Obligation Order 2009 (“the 2009 Order”) and makes transitional provision.

The 2009 Order imposes an obligation (“the renewables obligation”) on all electricity suppliers which supply electricity in England and Wales. Suppliers must produce, by a specified day, a certain number of renewables obligation certificates (“ROCs”) in respect of each megawatt hour of electricity that each supplies during a specified period known as an obligation period. The renewables obligation is administered by the Gas and Electricity Markets Authority (“the Authority”) who issue ROCs to renewable electricity generators in respect of their renewable output.

Article 2 amends article 2 of the 2009 Order to insert new definitions, to amend the definition of energy crops, and to set out how electricity generated by a generating station is to be apportioned between different types of generating capacity when the electricity generated by one type of generating capacity is not measured separately from the electricity generated by any other type of capacity.

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- (a) Article 30B of the 2009 Order, which is inserted by article 14 of this Order, enables certain capacity of a tidal stream generating station to be registered as 5-ROC capacity. The amount of electricity to be stated in each ROC issued in respect of electricity generated by capacity registered as 5-ROC capacity is 0.2 megawatt hours.
 - (b) Article 30B of the 2009 Order, which is inserted by article 14 of this Order, enables certain capacity of a wave generating station to be registered as 5-ROC capacity. The amount of electricity to be stated in each ROC issued in respect of electricity generated by capacity registered as 5-ROC capacity is 0.2 megawatt hours.

Article 3 amends article 4 of the 2009 Order to expand the definition of biomass to include fossil derived bioliquids. Article 5 makes consequential amendments to article 22 of the 2009 Order.

Article 4 amends article 13 of the 2009 Order to remove the co-firing cap and to insert a bioliquids cap.

Articles 7 and 8 amend articles 25 and 26 of the 2009 Order to make certain landfill gas generation ineligible for ROCs, and to remove the minimum gross calorific value requirements applying to certain fuels, except for certain capacity of stations accredited before 1st April 2013.

Article 9 amends article 27 of the 2009 Order to change the provisions for determining the amount of electricity that must be generated by a generating station in order to be eligible for a ROC depending on the way in which it has been generated ("bands"). Article 22 amends Part 1 of Schedule 2 to the 2009 Order to insert some new bands, to remove some existing bands and to amend the definitions of some existing bands. Article 23 substitutes Part 2 of Schedule 2 to the 2009 Order to set out the levels of support for the bands applying to generating capacity accredited, and additional capacity added, before 1st April 2013. Article 24 inserts a new Part 5 of Schedule 2 to the 2009 Order to set out the levels of support for the bands applying to generating capacity accredited, and additional capacity added between 1st April 2013 and 31st March 2017. Consequential amendments are made by article 12 to article 30 of the 2009 Order, by article 15 to article 31 of the 2009 Order and by article 16 to article 33 of the 2009 Order.

Article 10 amends article 28 of the 2009 Order to change the provisions for determining the amount of electricity which is eligible for a higher level of support by virtue of being generated by a qualifying combined heat and power generating station, and for determining what that higher level of support should be. Article 21 inserts a new article 58B into the 2009 Order to enable certain generating stations to declare that they will not claim support under the Renewable Heat Incentive in respect of such generating capacity as they specify in their declaration.

Article 11 amends article 29 of the 2009 Order to set the level of support for microgenerators.

Article 13 amends article 30A of the 2009 Order to set out the circumstances in which certain offshore wind generating stations will be entitled to only 1.5 ROCs per megawatt hour.

Article 18 amends article 54A of the 2009 Order to implement, in relation to the renewables obligation, Commission Decision 2011/13/EU on certain types of information about biofuels and bioliquids to be submitted by economic operators to Member States^(a). Article 17 makes a consequential amendment to article 54 of the 2009 Order.

Article 20 inserts a new article 58ZA into the 2009 Order to enable certain generating stations to apply to the Authority to benefit from a grace period enabling them to obtain the levels of support available to generating stations accredited on 31st March 2013. For stations benefiting from this grace period, the 20 year period of eligibility for support under the renewables obligation will also run from that date. Article 6 inserts a new article 22C into the 2009 Order to prevent those stations benefiting from this grace period from receiving ROCs for electricity generated before their application for accreditation was accepted. Article 19 makes consequential amendments to article 58 of the 2009 Order.

Article 21 inserts a new article 58C into the 2009 Order which enables certain wave and tidal stream generating stations to apply to the Authority to register all or part of their generating capacity as eligible to receive 5 ROCs for each megawatt hour of electricity generated. Article 14 inserts a new article 30B into the 2009 Order to set the level of support for those stations for which the Authority has registered capacity under the new article 58C of the 2009 Order.

Article 25 makes transitional provision in respect of the obligation period ending on 31st March 2013.

^(a) OJ L 9, 13.1.2011, p.11

Draft for consultation purposes only.

A transposition note is annexed to the explanatory memorandum which is available alongside the Order on www.legislation.gov.uk. Impact assessments of the effect that this Order will have on the costs of business and the voluntary sector are available alongside the Order on that website.