
STATUTORY INSTRUMENTS

2003 No 2562.

ELECTRICITY

The Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations 2003

<i>Made.....</i>	<i>3rd October 2003</i>
<i>Laid before Parliament.....</i>	<i>6th October 2003</i>
<i>Coming into force.....</i>	<i>27th October 2003</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the regulation of the electricity sector, in exercise of the powers conferred on her by that section, hereby makes the following Regulations:—

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations 2003 and shall come into force on 27th October 2003.

(2) These Regulations do not extend to Northern Ireland.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires —

“the Authority” means the Gas and Electricity Markets Authority established under section 1 of the Utilities Act 2000(c);

“biomass” means the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste;

(a) S.I. 1998/745.

(b) 1972 c.68.

(c) 2000 c.27.

“competent authority” means-

- (a) the Authority; and
- (b) any Minister, government department, public body of any description or person holding a public office;

“declared net capacity” means the highest generation of electricity (calculated by adding together the highest generation of electricity at the main terminals of each alternator and dynamo) which, on the assumption that the source of power is available uninterruptedly, can be maintained indefinitely without causing damage to the plant, less so much of that electricity as is consumed by the plant;

“the Directive” means Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity from renewable energy sources in the internal electricity market(a);

“electricity produced from renewable energy sources” means-

- (a) electricity produced by a plant which produces electricity derived only from renewable energy sources;
- (b) in the case of a plant which produces electricity derived from both renewable and other energy sources, the proportion of electricity derived from renewable energy sources,

and shall include electricity which is used for filling storage systems, but not electricity produced as a result of such filling of storage systems;

“guarantee of origin” means, except in relation to regulations 9(2) to (5) and (so far as it relates to guarantees of origin issued in another Member State or Northern Ireland) 9(6), a certificate issued by the Authority certifying that the electricity in respect of which the certificate is issued was electricity produced from renewable energy sources;

“guarantee sequence number” has the meaning given by regulation 7(4);

“Great Britain” includes-

- (a) the territorial sea of the United Kingdom which is adjacent to Great Britain; and
- (b) any area designated under section 1(7) of the Continental Shelf Act 1964(b);

“levy exemption certificate” has the same meaning as in regulation 48 of the Climate Change Levy (General) Regulations 2001(c);

“nominated person” has the same meaning as is given to it in the Electricity from Non-Fossil Fuel Sources Saving Arrangements Order 2000(d);

(a) O.J. No. L 283/33.

(b) 1964 c.29.

(c) S.I.2001/838; relevant amending instrument is S.I. 2003/604.

(d) S.I. 2000/2727, as amended by S.I. 2001/3268.

"Non-Fossil Fuel Order" means any of the following orders: the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1994(a); the Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1994(b); the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1997(c); the Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1997(d); the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1998(e); and the Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1999(f);

"Non-Great Britain authority" means a Member State other than the United Kingdom, or a body or person in Northern Ireland or in another Member State corresponding to a competent authority;

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

"recognise", in relation to a guarantee of origin, means to recognise in accordance with article 5 of the Directive as proof of the matters referred to in paragraph 3 of that article only;

"the Register" means the register established by the Authority under regulation 7(1);

"registered holder", in relation to a guarantee of origin, means the person whose name is shown on the Register in accordance with paragraph 2(a) of Schedule 2 as the last person to whom that guarantee of origin has been transferred or, where there is no person so shown, the person whose name is shown on the Register under paragraph 1(a) of that Schedule as the person to whom the guarantee of origin has been issued;

"registered particulars" means the information entered on the Register, as specified in paragraph 1 of Schedule 2, in relation to a guarantee of origin;

"renewable energy sources" means renewable non-fossil energy sources, that is, wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;

"storage system" means a system for the storage of water or any other substance intended for use in the production of electricity produced from renewable energy sources;

"supply successor company" means a person who became the holder of a supply licence under section 6(1)(d) of the Electricity Act 1989(g) on 1st October 2001 by virtue of a licensing scheme made in relation to a public electricity supplier under Part II of Schedule 7 to the Utilities Act 2000 or a person who has become a supply

(a) S.I. 1994/3259; as amended by S.I. 1995/68.

(b) S.I. 1994/3275 (S.190)

(c) S.I. 1997/248.

(d) S.I. 1997/799 (S.76).

(e) S.I. 1998/2353.

(f) S.I. 1999/439 (S.24)

(g) 1989 c.29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c.27).

successor company by virtue of article 6(3) of the Electricity from Non-Fossil Sources (Scotland) Savings Arrangement Order 2001(a).

(2) Unless the context otherwise requires, words and phrases used in these Regulations shall have the same meaning as in the Directive.

(3) Any reference in these Regulations to the provision of information "in writing" shall include the provision of such information by electronic mail, facsimile or similar means which are capable of producing a document containing the text of any communication and any reference to certificates or other documents shall be construed as including a reference to such certificates or other documents in electronic form.

Designation of the Authority as the issuer of guarantees of origin

3. Guarantees of origin shall be issued by the Authority in accordance with the provisions of these Regulations.

Request for issue of guarantees of origin and information required

4.—(1) The issue of guarantees of origin may be requested-

- (a) in respect of electricity which has been purchased under a qualifying arrangement by the nominated person (or, in Scotland, a supply successor company ("the relevant NFFO / SRO purchaser"), only by the relevant NFFO / SRO purchaser, unless he has notified the Authority that he does not intend to request such issue in respect of that electricity, in which case only the producer of the electricity may request such issue; and
- (b) in respect of any other electricity, only by the producer of that electricity.

(2) No request for the issue of guarantees of origin may be made under paragraph (1) in respect of electricity produced outside Great Britain.

(3) No request for the issue of guarantees of origin may be made under paragraph (1) in respect of a period of less than one month.

(4) A request under paragraph (1) shall be made to the Authority, and shall not be considered duly made until the Authority has been provided with all the information and evidence specified in Schedule 1.

(5) A request under paragraph (1) shall be accompanied by a statement signed by the person making the request (or, if the person making the request is a body corporate, by a representative of that body) that-

- (a) the person making the request is entitled under these Regulations to the issue of guarantees of origin in respect of the electricity which is the subject of the request; and
- (b) that the person making the request has not made, and does not intend to make, a request in another Member State or Northern Ireland for the issue of guarantees of origin in respect of the same electricity.

Access to a plant

5. Where-

- (a) the Authority requests access to a plant pursuant to the exercise of its functions under these Regulations; and
- (b) any person unreasonably fails or refuses to provide such access, or to provide the Authority with all relevant information and assistance that it may reasonably require for the purposes for which access has been requested,

the Authority may refuse to issue guarantees of origin in respect of any electricity produced by that plant in respect of which it has not already issued guarantees of origin.

Issue and transfer of guarantees of origin

6.—(1) Without prejudice to regulation 5, where the Authority has received a request for the issue of guarantees of origin which has been duly made in accordance with these Regulations, it shall issue guarantees of origin in respect of so much (but no more) of the electricity to which the request relates as the Authority is satisfied was electricity produced from renewable energy sources.

(2) Where it issues guarantees of origin under paragraph (1) the Authority shall issue guarantees of origin to the person making the request or to such other person as the person making the request may direct.

(3) One guarantee of origin shall be issued in respect of each kilowatt hour of electricity produced from renewable energy sources (rounding upwards or downwards to the nearest whole kilowatt hour, and with any exact half kilowatt hour being rounded upwards).

(4) Where a guarantee of origin has been issued and has not been revoked, no further guarantee of origin in respect of the electricity to which the guarantee relates shall be issued.

(5) If the registered holder of a guarantee of origin requests the Authority to transfer that guarantee of origin to any other person, the Authority shall do so by amending the Register accordingly.

Guarantees of origin and the Register

7.—(1) The Authority shall -

- (a) establish and maintain a Register, which may be in electronic form, and which shall contain the information set out in Schedule 2; and
- (b) publish that information on its website or by such other means as it considers appropriate.

(2) The Register shall be conclusive as regards whether a guarantee of origin subsists and as to the person who is for the time being its registered holder.

(3) A guarantee of origin shall comprise its registered particulars, and shall be regarded as being issued when those particulars are entered in the Register by the Authority.

(4) The Authority shall when issuing guarantees of origin -

- (a) allocate a unique number (the "guarantee sequence number") to each guarantee of origin issued; and
- (b) allocate guarantee sequence numbers sequentially in ascending numerical order to all the guarantees of origin issued in respect of electricity produced from renewable energy sources by a particular plant during the period to which the request relates.

(5) The Authority shall publish an explanation of how any code used by it in the Register to state information is to be interpreted.

Revocation of guarantees of origin

8.—(1) The Authority shall revoke a guarantee of origin where -

- (a) it is satisfied that the information provided in accordance with regulation 4(4) on the basis of which that guarantee of origin was issued is incorrect in a material particular or that the guarantee of origin was issued on the basis of any fraudulent behaviour, statement or undertaking; or
- (b) it is otherwise satisfied that the guarantee of origin should not have been issued, is inaccurate or was issued to the wrong person.

(2) Where the Authority revokes one or more guarantees of origin which were issued pursuant to a request under regulation 4, but does not revoke all the guarantees of origin which were issued pursuant to that request, it shall revoke the guarantees of origin sequentially in descending numerical order of guarantee sequence numbers.

(3) Where the Authority has revoked a guarantee of origin it shall as soon as practicable give notice of such revocation in writing to the registered holder of the guarantee of origin.

Recognition of guarantees of origin

9.—(1) A competent authority shall recognise a guarantee of origin issued by the Authority under regulation 6(1).

(2) Subject to paragraph (3), or if, following a refusal to recognise a guarantee of origin under paragraph (3), it is required to do so by the Commission of the European Communities acting pursuant to article 5(4) of the Directive, a competent authority shall recognise a guarantee of origin issued pursuant to article 5(1) of the Directive in another Member State or Northern Ireland.

(3) A competent authority shall refuse to recognise a guarantee of origin issued in another Member State or Northern Ireland -

- (a) if it has been requested to refuse such recognition by the non-Great Britain authority which issued or supervised the issue of that guarantee of origin; or
- (b) if it is satisfied that such refusal is necessary for the prevention of fraud or that the guarantee of origin was mistakenly issued.

(4) Where a competent authority has recognised a guarantee of origin in accordance with paragraph (2), it shall withdraw that recognition -

- (a) if it has been requested by the non-Great Britain authority which issued or supervised the issue of that guarantee of origin to refuse or withdraw such recognition; or
- (b) if it is satisfied that such withdrawal of recognition is necessary for the prevention of fraud or that the guarantee of origin was mistakenly issued.

(5) Paragraphs (2), (3)(b) and (4)(b) impose no obligation on a competent authority to satisfy itself that a guarantee of origin issued in another Member State or Northern Ireland has been properly issued.

(6) Recognition by a competent authority of a guarantee of origin issued under regulation 6(1) or in another Member State or Northern Ireland shall be in such form as that competent authority may determine.

Written requests, etc

10.—Any request, notification, statement or provision of information required or permitted to be made under these regulations shall be made in writing.

Signed by authority of the Secretary of State for Trade and Industry

2003

Minister of State for Energy,
E-Commerce and Postal
Services

SCHEDULE 1

Regulation 4(4)

INFORMATION TO BE PROVIDED UNDER REGULATION 4(4) IN A REQUEST FOR A GUARANTEE OF ORIGIN

1. The name and address (if a body corporate, the registered or principal office) and, if a company, the registered number, of the person requesting the issue of the guarantee of origin.
2. Where the person signing the statement required under regulation 4(5) is not the person making the request, the name and address of the person signing the statement
3. Whether the person requesting the issue of the guarantee of origin is the producer of the electricity in respect of which the guarantee of origin is requested and, if not, the name and address (if a body corporate, the registered or principal office) and, if a company, the registered number, of the producer.
4. The energy source or sources from which the electricity in respect of which the guarantee of origin is requested was produced.
5. The beginning and end of the period covered by the request.
6. The place where the electricity in respect of which the guarantee of origin is requested was produced, and the name, if any, of the plant.
7. Where the electricity in respect of which the guarantee of origin is requested was produced in a plant which is a hydroelectric installation, the declared net capacity of the installation.
8. The quantity of electricity in respect of which the guarantee of origin is requested, together with the total quantity of electricity produced by the plant during the period referred to in paragraph 5.
9. Such further information or evidence as the Authority may, in the particular circumstances of the case, reasonably require for the purpose of ascertaining the accuracy of the information required to be provided under paragraphs 1 to 8 above or to enable it to be satisfied that any energy source specified in paragraph 4 is a renewable energy source.

INFORMATION TO BE CONTAINED ON THE REGISTER

Registered particulars

1. In relation to each guarantee of origin issued in accordance with regulation 6 -

- (a) the name and address (if a body corporate, the registered or principal office) and, if a company, the registered number, of the person to whom the guarantee has been, or was originally, issued;
- (b) an identifier, which shall include the guarantee sequence number;
- (c) the energy source or sources from which the electricity to which the guarantee of origin relates was produced;
- (d) the beginning and end of the period to which the guarantee of origin relates;
- (e) the place where the electricity to which the guarantee of origin relates was produced and the name, if any, of the plant;
- (f) where the electricity to which the guarantee of origin relates was produced in a plant which is a hydroelectric installation, the declared net capacity of the installation.

Other information

2. In relation to each guarantee of origin issued in accordance with regulation 6 -

- (a) where the guarantee of origin has been transferred in accordance with regulation 6(5), the name and address (if a body corporate, the registered or principal office) and, if a company, the registered number, of the last person to whom it has been transferred;
- (b) a statement as to whether the electricity in respect of which the guarantee of origin has been issued is eligible for a levy exemption certificate;
- (c) the date of issue of the guarantee of origin;
- (d) a statement as to whether the plant in question was throughout the period referred to in paragraph 1(d) accredited as mentioned in article 4(10)(a) of the Renewables Obligation Order 2002(a) or article 4(10(a) of the Renewables Obligation (Scotland) Order 2002(b).

3. A list of guarantees of origin that have been revoked under regulation 8, including the dates of revocation.

(a) S.I.2002/914

(b) SSI. 2002/163

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Article 5 of Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 (O.J. No. L 283/33) on the promotion of electricity produced from renewable energy sources in the internal electricity market. The Regulations do not amend the Climate Change Levy (General) Regulations 2001, the Renewables Obligation Order 2002, or the Renewables Obligation (Scotland) Order 2002. A Transposition Note setting out how the Government will transpose into UK law the main elements of Article 5 of the Directive is available from the Energy Innovation and Business Unit at the Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET. Copies have been placed in the Libraries of both Houses of Parliament.

Regulation 3 provides for guarantees of origin to be issued by the Gas and Electricity Markets Authority (“the Authority”).

Regulation 4 and Schedule 1 make provision relating to a request for the issue of guarantees of origin and the information that is required in connection with such a request.

Regulation 5 makes provision for the issue of guarantees of origin to be refused where access to plants is denied or relevant information withheld.

Regulation 6 sets out the manner in which guarantees of origin are to be issued and transferred.

Regulation 7 and Schedule 2 provide for a Register of guarantees of origin and revoked guarantees of origin.

Regulation 8 sets out the circumstances in which guarantees of origin are to be revoked.

Regulation 9 provides for the recognition of, and the refusal to recognise, guarantees of origin issued in other Member States or Northern Ireland, and for the recognition of guarantees of origin issued by the Authority.