

# PARLIAMENTARY DEBATES

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OFFICIAL REPORT

Third Delegated Legislation Committee

## DRAFT RENEWABLES OBLIGATION ORDER 2015

*Tuesday 20 October 2015*

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	† <b>attended the Committee</b>

## Third Delegated Legislation Committee

Tuesday 20 October 2015

[PHIL WILSON *in the Chair*]

### Draft Renewables Obligation Order 2015

2.30 pm

**The Minister of State, Department of Energy and Climate Change (Andrea Leadsom):** I beg to move,

That the Committee has considered the draft Renewables Obligation Order 2015.

The renewables obligation is a long-standing mechanism for supporting renewable electricity generation in the United Kingdom. The RO places an annual obligation on licensed UK electricity suppliers to source a specified proportion of the electricity they provide to customers from eligible renewable sources. The scheme is administered by Ofgem, which issues RO certificates to electricity generators in relation to the amount of eligible renewable electricity they generate. Generators then sell their certificates to suppliers, which use them towards meeting their obligation. Since it was introduced in 2002, the RO has played a key part in increasing the level of renewable electricity from 2.9% of total UK generation in 2002 to more than 25% in the second quarter of 2015. It supports around 22 GW of accredited capacity.

The RO scheme has been subject to a number of changes in recent years. The draft order revokes, consolidates and re-enacts the Renewables Obligation Order 2009 and the orders that have amended it since it came into force on 1 April 2009. It also makes consequential amendments to the Renewables Obligation Closure (Amendment) Order 2015. This consolidation simplifies and brings together in one document the main legislation underpinning the RO, making it more accessible to those who use it, including the Government and renewable industry stakeholders.

The order also implements outstanding policy decisions on the RO consulted on in 2013 and 2014. The changes focus on three areas: strengthening the sustainability of biomass electricity generation; providing for biomass conversion projects with an investment contract to regain eligibility for support under the RO in certain circumstances; and providing for the transfer of biomass co-firing and conversion projects to the capacity market mechanism.

A draft of the order was published for a three-week technical consultation on 24 March 2015. Comments were received from 18 respondents, mainly representing the biomass sector. The majority of responses focused on the detail of how the biomass sustainability land criteria had been incorporated in the draft order. We have carefully considered all the points raised and have taken them into account where appropriate.

The first set of new measures in the draft order is aimed at strengthening biomass sustainability criteria. The Government are committed to achieving a sustainable and cost-effective bioenergy deployment that drives carbon savings, minimises the environmental risks and makes best use of the biomass resource available for energy

and non-energy purposes. Currently, there are mandatory sustainability criteria in the RO for the use of bioliquids, which transpose certain requirements in the renewables energy directive.

Since April 2014, generating stations with a capacity of 1 MW and above, using solid or gaseous biomass, have been required to report on whether they meet greenhouse gas emissions and land use criteria. The draft order consolidates previous changes and makes compliance with the greenhouse gas emissions and land criteria mandatory for generating stations using solid or gaseous biomass in order to receive support under the RO. The measure will ensure that renewable generation from home-grown or imported solid or gaseous biomass receives financial support only if that biomass delivers genuine greenhouse gas emissions savings compared with fossil fuel, and if it is sourced from land that is sustainably managed, not from land with a high biodiversity value or carbon stocks.

Biomass power generation is already required to meet a greenhouse gas savings target of at least 60% compared with the EU fossil fuel average, and that target will become tighter in 2020 and in 2025. The draft order introduces a new methodology for calculating an annual average greenhouse gas emissions figure for all biomass used by a generating station, excluding certain types of waste. The purpose of the calculation is to ensure that generators are not penalised if an individual biomass consignment exceeds the greenhouse gas target due to circumstances beyond their control, such as bad weather increasing transport distances. That is subject to the provision that each individual consignment of biomass must not exceed an overall ceiling. The provision prevents mixing extremely high emission consignments with lower emission consignments as a means of washing through fuel consignments with an unacceptably high greenhouse gas value.

The draft order requires generators using wood fuel to comply with specific land criteria, derived from the timber standard for heat and electricity, which draws on the principles set under the Government's timber procurement policy. Some exemptions are introduced for certain low risk categories of wood such as arboricultural residues and material removed from non-forest land for ecological reasons.

The criteria were developed following engagement with interest groups and were consulted on in August 2013 and in 2014. They take into account a range of social, economic and environmental issues, including protecting biodiversity, land use rights, sustainable harvesting and regeneration rates.

The order also makes minor technical adjustments to the sustainability criteria for non-wood fuel biomass that correspond to the land criteria for bioliquids, for example to implement recent EU legislation. It amends the reporting requirements for wood fuel to enable the Government to monitor more effectively the use of different types of wood by the bioenergy sector, as well as making the reporting provisions more workable for industry.

Ofgem will regulate compliance with the mandatory greenhouse gas and land criteria. Generating stations using biomass that have a capacity greater than or equal to 1 MW must prepare and submit an annual sustainability assurance report compiled by a third party auditor or

verifier. Equivalent sustainability criteria are included in the first bioenergy contracts for difference, which were awarded in 2014, and are comparable to those set out in the renewable heat incentive scheme regulations, with some differences to account for the smaller scale nature of the heat market and the fact that most biomass supported under the renewable heat incentive is expected to come from UK sources.

The draft order also implements the final element of renewables obligation to contracts for difference transition policy. The first competitive contract for difference auction for renewables support, which was completed earlier this year, has allowed us to support low-carbon electricity projects at a lower cost to the consumer. The order provides for a biomass conversion unit or station that previously entered into an investment contract under the financial investment decision enabling for renewables—FIDeR—process to regain its eligibility for support under the renewables obligation, including conversion-level support if the contract is terminated for a permitted termination event such as the failure to secure, or a delay in securing, state aid approval from the European Union.

That specific transition measure is necessary because the investment contract process commenced in 2014, ahead of the rest of the electricity market reform, and contracts were awarded ahead of state aid clearance. It aims to provide the assurance and comfort needed to encourage ongoing investment, safeguard security of electricity supply and ensure value for money for consumers.

The draft order also provides for combustion units to bid into the capacity market and leave the renewables obligation if successful in that bid. The purpose of the capacity market is to ensure that there is sufficient investment in the overall level of reliable capacity—both supply and demand sides—needed to ensure secure electricity supplies. It will bring forward investment at least cost to consumers by allowing the market to set a price for capacity competitively. The first capacity market auction was held at the end of last year for delivery of capacity in 2018-19.

Biomass co-firing or conversion stations or units that wish to transfer from the renewables obligation into the capacity market can claim support under the renewables obligation until the last day before the first day of the delivery year under their capacity market agreement as long as they have given a capacity market transfer notice to Ofgem. That will ensure that all stations that are primarily coal-firers, but have at some point claimed low levels of biomass co-firing renewable obligation certificates and remain accredited under the renewables obligation, have a chance to enter the capacity market.

In addition, a biomass co-firing unit or station can withdraw from its capacity market agreement to convert fully under the renewables obligation before the first day of the delivery year under its capacity agreement or before closure of the renewables obligation to new generating capacity from 1 April 2017, whichever is earlier. Those provisions will come into effect one month after the rest of the order to allow time for generators who have already signed a capacity market agreement to complete and present to Ofgem the required capacity market transfer notice.

The renewables obligation has played a key part in delivering our renewable energy goals. With some exceptions, the renewables obligation scheme will remain open to

new capacity until 31 March 2017 to allow a period of transition to the contract for difference and capacity market schemes, which are expected to provide support for large-scale renewables in a more cost-effective and targeted way. The consolidation and changes set out in the order will keep us on a firm path as we complete that transition.

I am sure that members of the Committee will appreciate the value and importance of introducing mandatory biomass sustainability requirements, which, put simply, mean that generators will receive support under the renewables obligation only for using biomass that comes from a sustainable source and delivers real greenhouse gas savings. The policies in the order relating to regaining support under the renewables obligation following termination of an investment contract in certain circumstances, and moving between the capacity market and the renewables obligation, will ensure a smooth and fair transition for generators and consumers alike.

These measures will provide the certainty needed to maintain investment in the technologies we need to keep the lights on, as well as to deliver our low-carbon goals at the lowest cost to the consumer.

2.42 pm

**Dr Alan Whitehead** (Southampton, Test) (Lab): It is a pleasure to serve under your chairmanship, Mr Wilson. The order is not particularly controversial. Indeed, I thank the Minister for her exhaustive exposition of what is in it, because that saves me the task of attempting to go through its pages myself. I think the whole Committee is grateful for her guided tour of the main details.

However, the details give rise to one or two questions. In particular, there is the emergence in the order of a consolidation of not strictly previous regulations, but newer regulations that relate to the sustainability of biomass. I welcome that move. My understanding is that those changes will, among other things, ensure a genuine approach to sustainability throughout the chain of biomass procurement, transport and production. Will the Minister confirm that that is her understanding of what the order does? I would be grateful for that.

As the Minister outlined, certain biomass producers will now be able to opt to enter into the capacity market at a certain stage after the initial operation of their plant has commenced under the renewables obligation. I do not know whether she has investigated this, but I am slightly concerned about the extent to which that way of doing things affects the Department's required estimates of the necessary capacity to be procured at the beginning of a capacity auction cycle. Will the opt-in process, described on the basis of coming into being at a certain period after the opting-in process has been decided, materially affect those calculations, possibly on a relatively unplanned basis, or are mechanisms already in place or being considered that will make that process more stable as far as capacity requirements are concerned?

Other than that, the order is essentially an updating and consolidation of regulations relating to the renewables obligation certificate. The previous serious consolidation, the 2009 regulations, have been comprehensively updated in that process. As the Minister pointed out, the order

[Dr Alan Whitehead]

was subject to a consultation. It is good news that there was a consultation, and we might say that it was good rather than bad news that only 18 responses were received. They were dealt with in the response to the consultation and led to some minor corrections in the subsequent iteration of the draft order, which is before us today.

That is not the end of the matter. Since the consultation closed, material differences in the RO's operation were announced, namely its closure to onshore wind a year earlier in March 2016, which was announced on 18 June. Since the order before us differs from that put to consultation only in respect of minor changes in the light of that consultation, to all intents and purposes it is as if onshore wind is still within the RO's terms, at least until the closure of the entire RO in March 2017.

By and large, the order does not mention onshore wind, unlike some other technologies eligible for the RO. That is not because someone has gone through and airbrushed onshore wind out of the order. That would not be possible, because they would have had to do so before the alleged mandate for eviscerating onshore wind passed in front of the British electorate, and that would plainly point to the subsequent reasoning about the basis for the aforementioned evisceration being a little disingenuous—I am sure that that is not the case.

The 2009 order does not mention onshore wind either, but, as a defined generator, its presence is all over it. Therefore, does its soon-to-be-confirmed absence from 2016 mean that any part of the order will have to be rewritten? Onshore wind certainly featured strongly in the Renewables Obligation Closure Order 2014, to which this order makes minor amendments. The 2014 order established beyond doubt, by specifying a date, that the RO would come to an end in March 2017, or, to put it another way, it would continue with wind—both onshore and offshore—until that point.

This question is complicated by the events in another place, where the Government are seeking to place a similarly definite end date for onshore wind on the statute book in the Energy Bill. In the other place, however, Ministers are tabling fairly complex amendments to the Bill, including to end dates, which spare those plants that have gained accreditation and planning but are having difficulties in obtaining funding owing to, among other things, the understandable uncertainty caused by that whole dreadful farrago. They are saving those plants from the axe during a grace period—not the grace period of one year taking plants up to March 2017 as originally announced, but a new grace period of approximately nine months after assumed Royal Assent in March next year. I am not quite sure where the provisions of the order stand in relation to the shifting sands of projects buried, partly dug up—

**The Chair:** Order. Dr Whitehead, will you start to clarify why this is actually relevant to the order?

**Dr Whitehead:** Yes, indeed, Mr Wilson. I am coming to that in a moment but I felt it necessary to establish the circumstances under which it is relevant. I will, of course, go with your guidance on the matter.

The fact that the status of onshore wind is now off the order in reality but remains on the order in presentation may well make a difference to the structure of the order itself. For example, schedule 5 sets out which part of a ROC plants will receive—that is, how many ROCs make a ROC dependent on the type of plant deployed. Wind gets 10 ninths of stated energy in its ROC and for energy generated post-2016, which may well apply for continuing ROCs from earlier awards—after all, the ROC market will continue in ghostly form for a number of years—but now will not exist for the generation commenced in 2016. That has to make a difference to the overall calculation of the number of ROCs available and, hence, their value in the market during that period, although I would not know that by looking at the table or the entire order.

However, it might, to all intents and purposes, exist after all if the amendments moved in another place actually happen. Right now they have been withdrawn but I understand that they might come back next week. Will the Minister assure me that what we are asked to support today is the last word as far as the order is concerned? Will some parts of the order need to be rewritten in the light of the events in another place, soon to be coming to us? If there is any suggestion that changes may be needed, I would expect the Minister to do as her counterpart in another place has done in the light of some uncertainty about his proposals—lay the order on the table until such time as the uncertainty has passed and the definitive text can emerge.

2.52 pm

**Andrea Leadsom:** I am grateful to the hon. Gentleman for his support for the order in a big-picture sense. I can assure him that the new order is intended to ensure that the whole process of biomass sustainability is assured from the beginning to the end of the process. In answer to his second point, biomass producers that enter the capacity market will be required to give advanced notice to Ofgem, so it is not expected that that will cause any problems for our assessment of the amount to auction in the capacity market. It is expected, if anything, that that will add to our ability to see the likely need for capacity in advance.

In response to the hon. Gentleman's third question, the closure of the RO to onshore wind a year early has been taken into account in drafting the order. As he points out, it is still going through the Lords at the moment and will then be coming to the Commons. Although we have taken it into account, there is no absolute certainty but it is our expectation that the order will not need to be rewritten.

*Question put and agreed to.*

2.53 pm

*Committee rose.*