



Guarantees of Origin of Electricity Produced from Renewable Energy Sources (REGOs)

Accompanying Guide to Statutory Instrument: 2003 No. 2562

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Purpose

This guide explains, in simple terms:

- (a) the Department's understanding of the provisions of the EU directive on the promotion of electricity produced from renewable energy sources in the internal electricity market (2001/77/EC) ("the directive") in respect of guarantees of origin ("REGOs") for electricity produced from renewable energy sources
- (b) the approach taken in Great Britain to implementing Article 5 of the Directive through the Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations 2003 (S.I. 2003 No. 2562) ("the regulations"). These Regulations do not extend to Northern Ireland where Article 5 has been implemented by the Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations (Northern Ireland) 2003 (Statutory Rule 2003/470).
- (c) how the DTI interprets the terms used in the regulations and the relationship between the regulations and Ofgem's procedures, which set out the manner in which those applying for guarantees of origin in Great Britain (*REGOs*) must provide the necessary information.

The guide is not a definitive interpretation of the regulations and has no legal force. Only a court can provide such an interpretation and if you need advice on the precise legal meaning of any provision in the regulations you should consult a lawyer. This guide sets out, in simple terms, what the DTI understands the regulations to mean, and in some cases, gives examples to illustrate the point.

Lay-out of the Guide

The guide is set out in the same way and in the same order as the regulations, with a brief explanation of the terms used, and how the DTI interprets those terms. It also sets out the purpose of each provision, how the provision is intended to work in practice, and what is required of those applying for REGOs under each provision. It also indicates which provision of the directive is implemented by each of the regulations.

Background

The directive aims to promote a substantial increase in the proportion of electricity produced - that is, generated, - from renewable energy sources across the European Union by 2010. Individual Member States have all been required to take appropriate steps to encourage greater production of electricity generated from renewable energy sources ("renewables electricity"), in order that the overall EU target of 12% energy (22.1% of electricity) by 2010 can be met. Each State has its own indicative target,

depending on issues such as historical experience with renewables. The target for the UK is set at 10% of electricity generation by 2010 (that is, it is intended that by 2010 10% of the electricity generated in the UK will be renewables electricity).

Article 5 of the directive requires that Member States ensure that a guarantee of origin is issued on request in respect of electricity generated from eligible renewable energy sources, as defined by the Directive.

While there is no obligation on individual generators to request the issue of a guarantee in respect of electricity that they have produced, REGOs will form the principal basis of evidence of renewable supply under the Fuel Mix Disclosure provisions (see below), and are likely to be one of the forms of evidence used by suppliers to support green electricity tariffs (also see below).

The main provisions of Article 5 require that guarantees of origin:

- Specify the energy source(s) from which the electricity was generated, the dates and places of production and in the case of hydro-electricity, the capacity of the plant.
- Serve to enable producers of renewables electricity to demonstrate that the electricity they sell is produced from renewable energy sources as defined by the directive.
- Should be mutually recognised by Member States, and any refusal to recognise should be based on objective, transparent and non-discriminatory criteria.

Member States are also required to put in place mechanisms to ensure that guarantees of origin are accurate and reliable, and to report to the Commission on the reliability of the system that has been put in place.

Can REGOs be traded?

The Directive is silent on the issue of whether the REGO can be traded separately from the electricity in respect of which it was issued.

Neither the Regulations, nor the REGO register impose any formal requirement for REGOs to be traded with the electricity, and it is impossible to prove that, within the national grid, individual units of electricity from a specific generator (of any type) have been utilised by a specific consumer. However the DTI has no plans to introduce any system for trading REGOs separately from the electricity, and is not currently aware of any plans to set up a formal trading system for REGOs. It is arguable that, were REGOs to be traded separately, then this would make it more difficult for suppliers to use them to demonstrate what percentage of renewable electricity they had supplied. This is because the REGOs associated with that electricity may have been sold elsewhere and may therefore be unavailable as evidence; conversely, the

REGOs produced by a supplier may have been purchased on the REGO market and therefore may not relate to the electricity actually supplied by that supplier.

Potential use(s) of the Guarantee of Origin

Fuel mix disclosure (FMD)

Article 3(6) of Directive 2003/54/EC of the European Parliament and of the Council concerning Common Rules for the Internal Market in Electricity (“the Electricity Markets directive”) requires Member States to ensure that each supplier informs customers of the mix of fuels used to produce the electricity it supplies. This requirement has been implemented by way of a new supply licence condition introduced by means of regulation under section 2(2) of the European Communities Act 1972.

Under this licence condition, from 1 July 2007¹ suppliers must hold REGOs as evidence in respect of any renewable electricity in the mix of fuels given as information to customers. For the period up to 1 July 2006, generator declarations setting out the fuel mix used to produce the electricity are also acceptable as evidence.

Suppliers can use guarantees of origin issued outside Great Britain if they hold evidence that the electricity referred to has been supplied in Great Britain, and that the guarantees in question have not been used as the evidence of fuel mix outside Great Britain (ie no double counting).

Where suppliers do not hold the evidence required, they must apportion the total amount of electricity supplied according to the percentages detailed in a default residual mix published by the DTI on 1st August each year.

The Electricity (Fuel Mix Disclosure) Regulations 2005 (Statutory Instrument 2005 No.391) which give effect to the new licence condition to implement this provision came into force on 18 March 2005, following two rounds of consultation by Ofgem and the DTI on the proposed licence condition.

Green electricity tariffs

As specified by Article 5 of the directive, REGOs enable producers of renewables electricity to demonstrate that the electricity they sell is produced from renewable sources. This will in turn enable electricity suppliers to use REGOs to demonstrate that the electricity to which the REGO applies is generated from renewable sources for the purpose of green electricity tariffs.

The exact mechanism for this will depend upon the expectations of customers and the requirements of any certification or accreditation bodies that may enter the market as well as interaction with the fuel mix disclosure requirements.

¹ i.e. in labels prepared from 1/10/2007 referring to electricity supplied in financial year 2006/7

Ofgem launched a consultation on revised Green Supply Guidelines on 4 April, 2005. That consultation proposes that REGOs should be the main industry-wide evidence for tracking the origin of renewable energy for the purposes of green supply offers, consistent with the rules for fuel mix disclosure. The consultation exercise closes on 1 July 2005.

A green supply tariff can be seen as a subset of the total fuel mix of a supplier – so for customers on that tariff, if the supplier is claiming that it is 100% renewable, then they should hold REGOs to match the total sales under that tariff (at the FMD cut-off date i.e. 12.00 on 1 July following the relevant financial year). It should be noted that, while this guarantees that the customer is supplied with renewables, it does not guarantee any “additionality” because the renewable energy supplied could form part of the supplier’s Renewables Obligation. It also means that the mix for other customers will end up less “green” than the supplier’s total mix

Fuel mix disclosure would effectively prove the level of renewables electricity supplied for a licensee as a whole, for a given year. But to prove supply of renewables electricity at a more specific level (for individuals or groups of consumers, and over different time periods) would be more complex and would depend on the requirements of auditing/accreditation bodies. In order to avoid double counting, Ofgem’s draft revised green supply guidelines propose that suppliers should hold and retain evidence to verify that the total energy sold under green supply arrangements does not exceed the amount of renewable generation claimed in the supplier’s fuel mix disclosure.

Relationship between the Regulations, the Guide and Ofgem’s procedures

The Regulations implement the provisions of Article 5 of the directive into the law of Great Britain.

Under the Regs, Ofgem is responsible for issuing GB REGOs, and has set out its administrative procedures. These procedures cover matters of detail, principally concerning four issues. Firstly, they specify the information that generators of renewables electricity must produce if they wish to apply for REGOs. Second, they also state how that information must be supplied and provide a procedure for the issue of REGOs. Third, they cover the revocation of REGOs, and finally, the recognition of guarantees of origin issued in other Member States or Northern Ireland, and REGOs issued by Ofgem. Ofgem’s procedures for REGOs are available at:

<http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/guarantee>

The Regulations

This Guide only highlights those provisions in the Regulations where we consider that some further explanation may be helpful. It does not refer to those provisions which appear to be self-explanatory.

These Regulations are made under Section 2(2) of the European Communities Act 1972, which provides powers for implementing EU measures into domestic law.

1. Citation, commencement and extent

(1)(2)

This states the title of the Regulations and their date of coming into force, and specifies that they do not extend to Northern Ireland (with the result that they extend only to England, Scotland and Wales). Article 5 has been implemented separately in Northern Ireland.

2. Interpretation

This defines the terms used in the Regulations. Some terms that are also used in the directive are expressly defined similarly in the regulations. Under regulation 2(2) other terms used in both documents are to be interpreted as having the same meaning in the regulations as in the directive, unless the context otherwise requires.

(1)

- *Biodegradable fraction* shall be taken to mean that fraction derived from plant or animal matter or substances derived directly or indirectly there from (provided that such plant or animal matter is not or is not derived directly or indirectly from fossil fuel).
- Where electricity is produced from hybrid plants (i.e. generating stations using some renewable and some fossil fuel sources), the proportion produced from the renewable source is counted as renewables electricity. This proportion will need to be calculated taking into account both the quantity of the respective fuels used and their calorific value.
- In all cases the producer of the electricity shall be taken to mean the operator of the generating station.
- With regard to storage systems (e.g. pumped hydro) any renewables electricity used to fill the storage system is considered to be produced from renewable sources, but the electricity produced as a result of the storage is not.
- A REGO issued in Great Britain is therefore a guarantee of origin issued by Ofgem. The reference to regulations 9(2) to (5) is relevant since these

provisions refer to guarantees of origin issued by other Member States, or in Northern Ireland, and therefore not by Ofgem.

- A “*nominated person*” has the same meaning as in the Electricity from Non-Fossil Fuel Sources Savings Arrangements Order 2000 (currently the Non-Fossil Purchasing Agency (NFPA)).
- A “*qualifying arrangement*” refers to the arrangements under which the NFPA and the Scottish supply successor companies purchase electricity from the operators of generating stations under contracts made under the Non Fossil Fuel Obligation (NFFO) Orders and the Scottish Renewables Obligation (SRO) Orders
- This definition of “*renewable energy sources*” is similar to the wording of Article 2(a) of the Renewables Directive. There is no restriction on the size of hydro generating station.
- The supply successor companies in Scotland are Scottish Power Energy Retail Ltd and SSE Energy Supply Limited who can request REGOs in respect of electricity generated under SRO contracts.
- Plant refers to a generating station.
- Electricity production refers to electricity generation.

(3)

- This regulation provides that information in the form of e-mails or faxes (or any other form that is capable of producing a document containing text) are deemed to be ‘in writing’ for the purposes of the regulations.

3. Designation of the Authority as the issuer of guarantees of origin

This regulation implements Article 5.2 of the directive and provides that Ofgem will issue REGOs where a request is made in accordance with the Regulations. Later regulations set out in more detail how this is to be done.

4. Request for issue of guarantees of origin and information required

This regulation, together with regulations 5, 7 and 8, implements Article 5.5 of the directive (not including the reporting requirement included in that article).

(1)(a)(b)

This means that, in most cases, only the producer (ie generator) of the renewables electricity in question can apply for a REGO. However there are two exceptions. The

NFPA can request a REGO in respect of electricity that it has purchased as part of an ongoing Non-Fossil Fuel Obligation (NFFO) contract, and similarly, a Scottish supply successor company can request a REGO in respect of electricity that it has purchased as part of an ongoing Scottish Renewable Obligation (SRO) contract. In the event that the NFPA or (as the case may be) the relevant Scottish supply successor company informs Ofgem that it does not intend to request the issue of a REGO, then the generator may request a REGO in respect of that electricity.

(2)

- Self Explanatory

(3)

- A REGO may not be validly requested (and therefore may not be issued) for a period of electricity generation of less than 1 calendar month.

(4)

- This paragraph means that those applying for a REGO must apply to Ofgem, and that they must give the information listed in Schedule 1 to the Regulations.

(5)(a)(b)

- To help protect against fraud when a request is made for REGOs the requesting person must also sign an accompanying statement that (a) they are eligible under the regulations to receive REGOs for the electricity in question and (b) that they have not made and do not intend to make a request for REGOs in another member state in respect of the same electricity (as this could lead to double-counting).

5. Access to a plant

This regulation, taken together with Regulations 4, 7 and 8, implements Article 5.5 of the directive.

(a)(b)

- This provision enables Ofgem to assess whether a REGO should be issued and to check that the information provided is accurate by visiting the generating station and inspecting the relevant equipment. Ofgem can refuse to issue REGOs if access or relevant information or assistance, is not provided

6. Issue and transfer of guarantees of origin

This regulation implements Article 5.1 of the Renewables Directive.

(1)

- Self explanatory.

(2)

- This provision enables the person making the request, including the NFPA or the Scottish supply successor companies where appropriate, to direct that any REGOs requested be issued to a third party. For example REGOs issued in respect of electricity produced pursuant to a NFFO or SRO contract may be issued to the supplier who purchased the relevant electrical output in the NFPA auction

(3)

- Self explanatory

(4)

- The purpose of this provision is to ensure that there is no duplication of REGOs. In other words, the same unit of electricity (i.e. a specific number of kWh produced over a set period of time by a particular generating station) cannot attract more than one REGO per kWh.

(5)

- Self Explanatory

7. Guarantees of origin and the Register

This Regulation implements Articles 5.3 and 5.5 of the directive.

(1)(a)(b)

- Ofgem is required to maintain a register of REGOs containing the information set out in schedule 2 and to publish it in a manner it considers appropriate.

(2)

- Self-explanatory.

(3)

- A REGO will comprise its particulars as entered on the register, and shall only be regarded as issued once its details have been so entered.

(4)(a)(b)

- To prevent duplication or double counting each REGO will include a unique identifying number. Identifying numbers will be sequential for an individual request for REGOs. It is expected that Ofgem's IT system will issue 9 digit guarantee sequence numbers.

(5)

- The information that comprises a REGO may be in coded form. This provision requires Ofgem to publish an explanation of any code used.

8. Revocation of guarantees of origin

This regulation, together with Regulations 4, 5 and 7, implements Article 5.5 of the Renewables Directive.

(1)(a)(b)

- Regulation 8(1)(a) requires Ofgem to revoke (that is, to cancel) a REGO that it has previously issued where it is satisfied either that the information provided in support of the request to issue the REGO was incorrect in a material particular or that the REGO was issued as a result of any fraud on the part of the electricity producer). Regulation 8(1)(b) enables Ofgem to revoke a REGO where it is otherwise satisfied that the REGO is inaccurate, should not have been issued or was issued to the wrong person.

(2)

- Self explanatory.

(3)

- Self Explanatory

9. Recognition of guarantees of origin

This Regulation implements Article 5.4 of the directive.

(1)

This requires any competent authority to recognise REGOs issued by Ofgem, as proof of the matters referred to in article 5.3 of the directive, summarised in bullets 1 and 2 under “Background”, above. “Competent authority” is defined in regulation 2(1) and includes Ofgem, Ministers and other public bodies.

(2)

Subject to exceptions specified in regulation 9(3), this provision requires a competent authority to recognise any guarantees of origin issued in other Member States or in Northern Ireland. In this context “recognise” simply means accepting that the electricity in respect of which the guarantee of origin was issued was generated using renewable energy sources as defined by the Directive. In addition this provision requires Ofgem or a competent authority to recognise a guarantee of origin issued in another Member State or Northern Ireland if required to do so by the Commission of the European Communities.

(3)(a)(b)

- These provisions require a competent authority to refuse to recognise a guarantee of origin issued in another Member State or in Northern Ireland if:

- a) the non-Great Britain authority that issued the guarantee requests it or;
- b) it is satisfied that refusal is necessary for the prevention of fraud or that the guarantee of origin was mistakenly issued.

(4)(a)(b)

- If Ofgem (or any other competent authority) recognises a guarantee of origin from Northern Ireland or another Member state it must subsequently withdraw its recognition if:
 - a) it is requested to do so by the non-Great Britain issuing authority or;
 - b) it is satisfied that withdrawal is necessary for the prevention of fraud or that the guarantee of origin was mistakenly issued.

(5)

- This provision makes clear that, where guarantees of origin are issued in respect of electricity produced outside Great Britain, a competent authority has no obligation to ascertain whether they have been properly issued according to the directive or to applicable regulations.

(6)

- Recognition by Ofgem (or another competent authority) of a REGO issued under these Regulations or a guarantee of origin issued **by** a non-Great Britain Authority may take place in any form that Ofgem (or that other authority) determines.. The regulations currently do not provide for the register to list REGOs not issued by Ofgem. It is therefore expected that this information will be published separately on Ofgem's website.

Schedule 1

This lists the information that producers must provide when applying for a REGO.

1. Self-explanatory
2. Examples of a case where the person signing the statement required under regulation 4(5) is different from the person making the original request include where a generator employs a consultant to make the request but needs to sign the statement.
3. Self-explanatory
4. This means the energy source used to generate the electricity. This would include both the fossil fuel and the renewable fuel used in the case of hybrid generating stations.
5. Self-explanatory
6. Self-explanatory
7. There is no upper limit on the size of hydroelectric installations, however the declared net capacity (DNC) must be stated.
8. One REGO is issued for every whole kWh of renewables electricity generated, as specified in regulation 6(3). Therefore, Ofgem will require all electricity production figures to be provided in kWh units.
9. Any further relevant information that Ofgem may reasonably require to verify the above information or to be satisfied that the source in question is renewable. Ofgem has issued guidelines which can be found at <http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/guarantee>. These state what, if any additional information will usually be required under the Regulations.

Schedule 2

This specifies the information to be contained on the REGO register.

Registered Particulars

1. Self-explanatory

Other Information

2.
 - a) Self-explanatory
 - b) The Register will state whether the electricity in respect of which a REGO was issued has been eligible for Levy Exemption Certificates ("Renewables LEC"), under the Climate Change Levy (General) Regulations 2001 (S.I. S.I.2001/838). The same electricity may be eligible for both a REGO and a Renewables LEC, but the Register will record the fact to prevent any double-counting.
 - c) Self-explanatory
 - d) The Register will state whether the generating station that produced the electricity for which the REGO was issued was accredited under article 4(1)(a) of the Renewables Obligation Order 2002 (S.I.2002/914) or the Renewables Obligation (Scotland) Order 2002 (S.S.I.2002/163) when the electricity was produced. The same electricity may be eligible for both a REGO and a ROC, but the register will record the fact of RO accreditation to help prevent any double-counting. Note: these Orders have now been superseded by the Renewables Obligation Order 2005 (S.I. 2005/926) and the Renewables Obligation (Scotland) Order 2005 (S.S.I. 2005/185).
3. Details of REGOs that have been revoked will be included in the Register, together with the dates when they were revoked.

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^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] 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^[3];

"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;

"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 27th September 2001 on the promotion of electricity from renewable energy sources in the internal electricity market^[4];

"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^[5];

"levy exemption certificate" has the same meaning as in regulation 48 of the Climate Change Levy (General) Regulations 2001^[6];

"nominated person" has the same meaning as is given to it in the Electricity from Non-Fossil Fuel Sources Saving Arrangements Order 2000^[7];

"Non-Fossil Fuel Order" means any of the following orders: the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1994^[8]; the Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1994^[9]; the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1997^[10]; the Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1997^[11]; the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1998^[12]; and the Electricity (Non-Fossil Fuel Sources) (Scotland) Order 1999^[13];

"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^[14] 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 successor company by virtue of article 6(3) of the Electricity from Non-Fossil Sources (Scotland) Savings Arrangement Order 2001^[15].

(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 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

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

3rd October 2003

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.

SCHEDULE 2

Regulation 7(1)

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[[16](#)] or article 4(10)(a) of the Renewables Obligation (Scotland) Order 2002[[17](#)].

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

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 27th 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.

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.

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.

Notes:

[1] S.I. 1998/745.[back](#)

[2] 1972 c. 68.[back](#)

[3] 2000 c. 27.[back](#)

[4] O.J. No. L 283/33.[back](#)

[5] 1964 c. 29.[back](#)

[6] S.I. 2001/838; relevant amending instrument is S.I. 2003/604.[back](#)

[7] S.I. 2000/2727, as amended by S.I. 2001/3268.[back](#)

[8] S.I. 1994/3259, as amended by S.I. 1995/68.[back](#)

[9] S.I. 1994/3275 (S. 190).[back](#)

[10] S.I. 1997/248.[back](#)

[11] S.I. 1997/799 (S. 76).[back](#)

[12] S.I. 1998/2353.[back](#)

[13] S.I. 1999/439 (S. 24).[back](#)

[14] 1989 c. 29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c. 27).[back](#)

[15] S.I. 2001/3269.[back](#)

[16] S.I. 2002/914.[back](#)

[17] S.S.I. 2002/163.[back](#)
