POLICY NOTE

THE RENEWABLES OBLIGATION (SCOTLAND) AMENDMENT ORDER 2024

SSI 2024/98

The above instrument was made in exercise of the powers conferred by section 32, 32A and 32K of the Electricity Act 1989. The instrument is subject to affirmative procedure.

Summary Box

The purpose of the instrument is to amend the Renewables Obligation (Scotland) Order 2009 to allow for the 2024/25 Renewables Obligation Scotland (ROS) obligation level to be revised. The obligation level must be published by 01 October each year, 6 months before the applicable obligation year starts on 01 April. This SSI is being introduced to allow the Scottish Ministers to revise the obligation level for the 2024/25 obligation year after 01 October 2023.

Policy Objectives

This SSI will make provision for the 2024/25 ROS obligation level to be revised. The obligation level is the number of renewables obligation certificates (ROCs) that suppliers in Scotland are required to produce to Ofgem, per megawatt hour of electricity they supply in that obligation year (running 01 April-31 March). Scottish Ministers have a statutory obligation to publish this level each year before 01 October, thus providing at least 6 months' notice of the level before the applicable obligation year starts on 01 April, allowing electricity suppliers to price RO scheme costs into their bill tariffs.

The calculation of the obligation level factors in the UK Government's Energy Intensive Industry (EII) exemption. This scheme provides a partial (currently 85%) exemption for eligible EIIs from the electricity bill costs associated with the Renewables Obligation, as well as Contracts for Difference (CfD) and Feed in Tariff (FiT) schemes. This policy aims to protect EIIs from high electricity bills and to prevent the offshoring of emissions which may occur should they be faced with full costs. In April 2023, the UK Government committed to increase the EII exemption to 100% as part of their 'British Industry Supercharger' package.

However, the UK Government legislation which introduces the new 100% EII exemption level was not in place before 01 October 2023, meaning that it could not be factored into the normal setting of the 2024/25 obligation level. This legislation will now be made in March 2024, coming into force on 01 April 2024, the first day of the 2024/25 obligation period. Consequently, this SSI is required to allow the ROS obligation level to be revised, ensuring a new obligation level accounting for the 100% EII level can be published before 01 April 2024 and implemented as soon as UK Government legislation allows.

Consequently, this SSI will make provision for:

- The Scottish Ministers to publish a revised 2024/25 ROS obligation level.
- That revised obligation level to be published before 01 April.
- The Scottish Ministers to provide that the revised obligation level apply for all, or only part, of the 2024/25 obligation year. This provision is included as a precaution in

case the UK Government legislation raising the EII exemption level is delayed beyond 01 April 2024, requiring implementation of the revised obligation level to also be delayed beyond 01 April.

Without this SSI, the 2024/25 ROS obligation level would remain as it was published on 28 September 2023, based on an EII exemption level of 85%. This SSI will therefore make sure that, come 01 April, the ROS obligation level can be correctly aligned with the statutory EII exemption of 100%. As the UK Government are proceeding with an equivalent instrument permitting the obligation level for England & Wales to be revised, it also ensures that the ROS and the England & Wales scheme remain aligned and are managed cohesively in their legacy phase. This ensures appropriate coordination with the scheme in England and Wales and with changes to other schemes and policies, whilst minimising participant disruption.

Background

The Renewables Obligation Scotland (the ROS) was introduced in 2002 alongside a parallel scheme (the RO) for England and Wales and operates as a support mechanism to accredited renewable electricity generators in Scotland. Under the scheme, participating generators are awarded Renewables Obligation Certificates (ROCs) by Ofgem in proportion to their output. They then trade or sell these ROCs to electricity suppliers, who have an obligation to provide to Ofgem a certain number of ROCs in proportion to the electricity they have supplied (i.e. the obligation level). The trading and selling of ROCs to electricity suppliers provides generators with an additional income stream over and above the income they receive for selling their electricity on the wholesale market.

Electricity suppliers pass the cost of the scheme on to their customers through a levy on their bills. The amount a particular customer pays is dependent on the amount of electricity they use, meaning industrial customers can face significant ROS related costs. Consequently, in 2012 UK Government announced its intention to exempt certain EIIs from a proportion of policy costs in their bills and at Budget 2014, they decided to include the RO in this policy. The scheme was launched in 2016, with the 85% exemption level in place since the 2018/19 ROS obligation year. The intention was to protect EIIs from disproportionately high bills and to prevent the offshoring of emissions which might happen should relief not be in place.

However, given extremely high electricity prices and therefore higher risk of emissions offshoring, the UK Government consulted on raising the exemption level to 100% to further protect EIIs in light of increasing electricity costs, with the Scottish Government carrying out a parallel consultation. The original intention was to increase the 100% EII level for the 2023/24 obligation year but the UK Government delayed its introduction, with a commitment ultimately being made in April to implement the policy, as part of their ‘British Industry Supercharger’ package.

Consequently, the new 100% EII level was set for introduction in the 2024/25 RO/ROS obligation year. However, with the UK Government’s instrument introducing the new 100% EII level not in place before 01 October 2023, the 2024/25 ROS obligation level had to be set based on the existing 85% exemption level. This obligation level was published on the Scottish Government website on 28 September 2023. An indication of what the amended obligation level based on the 100% EII exemption level would be was included to enable electricity suppliers to plan and forecast appropriately. Therefore, this SSI is necessary to permit a change to the published 2024/25 ROS obligation, ensuring it is based on the 100% EII level which the UK Government intend to make law in March 2024.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

Between 22 August and 23 September 2022, Scottish Government held a public consultation on the UK Government's proposed changes to the EII exemption scheme. The consultation was shared with all Scottish EII's benefitting from the EII scheme. Two responses were received, with both supportive of raising the EII exemption to 100%. Stakeholders were also asked for feedback on the potential need to alter the ROS obligation level to facilitate the increased EII level. No negative feedback was given in response to this question, with the single response given in agreement with the proposal to amend the ROS obligation level. As a result of this consultation, Ministers agreed to raising the EII level to 100% for the 2024/25 obligation period and to the amending of the 2024/25 obligation level to facilitate this.

Further targeted consultation was undertaken between 20 September 2023 and 18 October 2023 to comply with Section 32L of the Electricity Act 1989. No responses were received.

Impact Assessments

Following screening it was determined that the following impact assessments were not required: child rights and wellbeing impact assessment; equalities impact assessment; fairer Scotland duty impact assessment; data protection impact assessment; and island communities impact assessment. No specific or noteworthy impacts relevant to these impact assessments were identified, with this SSI only introducing a minor change allowing for the 2024/25 ROS obligation level to be altered. Relevant impact assessments have been carried out by UK Government for the instrument which will raise the EII level to 100%, as it is this legislation which will result in a revised ROS obligation level.

It was also deemed that a strategic environmental assessment was not required for this SSI as it falls within the description of Section 4(3)(b) of the Environmental Assessment (Scotland) Act 2005 as a 'financial or budgetary plan'. The obligation level determines the cost of the scheme to suppliers and as such any provision which allows for this to be altered is considered to amount to a financial change within the ROS.

Financial Effects

The Minister for Energy and the Environment confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Directorate for Energy and Climate Change

January 2024