



Preliminary Consultation

**Proposed Reform of
the Northern Ireland
Renewables
Obligation**

May 2008



Department of
**Enterprise, Trade
and Investment**
www.detini.gov.uk

Department of Enterprise,
Trade and Investment

Proposed Reform of The Renewables Obligation

**Preliminary Consultation on Proposed Banding of the Northern Ireland
Renewables Obligation (NIRO)**

May 2008

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INTRODUCTION

1

- 1.1** The Northern Ireland Renewables Obligation (NIRO) is the Department's main policy measure for supporting the development of renewable electricity in Northern Ireland. The NIRO was introduced on 1 April 2005 and has been the subject of amendment in 2006 and 2007: the current legislation governing the NIRO is the Renewables Obligation Order (Northern Ireland) 2007 which became effective from 1 April 2007 with amendments to facilitate access by smaller scale renewable generators to the benefits of the NIRO; a further amending order was made in October 2007 to facilitate the operation of the NIRO within the Single Electricity Market arrangements for the island of Ireland.
- 1.2** The NIRO places a legal requirement on electricity suppliers to account for a specified and increasing proportion of their electricity as having been supplied from renewable sources or to pay a buy-out fee that is proportionate to any shortfall. Suppliers provide evidence of compliance by presenting Renewables Obligation Certificates (ROCs) which are issued to generators of renewable electricity for each megawatt-hour (MWh) of eligible output. The NIRO operates in tandem with two similar Obligations in Great Britain – the 'RO' in England & Wales and the 'ROS' in Scotland. ROCs issued in Northern Ireland under the NIRO (NIROCs) are tradeable with those issued under the two GB Obligations (GBROCs) in a UK-wide market for ROCs; both NIROCs and GBROCs are accepted as the necessary evidence under each of the Obligations.
- 1.3** ROCs (both NIROCs and GBROCs) are issued by OFGEM, which, in the case of NIROCs, is acting on behalf of the Northern Ireland Authority for Utility Regulation (NIAUR),
- 1.4** In May 2007, the Department of Business, Enterprise and Regulatory Reform (BERR) which has responsibility for the operation of the Obligation in England & Wales, published [a consultation paper](#) outlining proposals for reform of its Renewables Obligation. Because the NIRO operates in tandem with the Obligations in GB, DETI drew the consultation to the attention of stakeholders in Northern Ireland and encouraged participation in the consultation process. As part of this process the Department organised a seminar in Belfast on 22 August 2007 at which BERR officials outlined the reform proposals.
- 1.5** The RO Reform proposals have since been clarified further by way of BERR's publication of a UK [Government response](#) to that consultation. The main element is

the proposed introduction of 'banding' which will change the current system of issuing 1 ROC for each MWh of output to one whereby different renewable technologies will be grouped into separate bands offering different levels of support depending on the cost of the technology involved. Consideration is also given to a range of associated matters including provision for existing projects to retain their initial ROC entitlement, how a new Obligation level based on ROCs rather than on electricity supplied will be calculated, arrangements for review etc.

1.6 To accommodate the principle of 'banding' within the Renewables Obligation the draft Energy Bill currently being progressed at Westminster includes changes necessary to the primary legislation governing the Renewables Obligations in GB; similar changes will be needed to the corresponding Northern Ireland primary legislation.

1.7 It had been agreed in principle prior to the resumption of the current Assembly that banding should be introduced to the NIRO; however, the original BERR consultation did recognise that, while consistency across all three Obligations was preferable, responsibility for the detailed implementation in Northern Ireland and in Scotland would be a matter for the respective devolved Ministers. This preliminary consultation is therefore intended to have two purposes:

- (a) to give respondents an opportunity to identify and highlight any areas where the banded NIRO might need to differ from the BERR proposals to take account of NI-specific issues; and
- (b) to seek comment, where appropriate, on the draft amendment to the relevant Northern Ireland primary legislation.

1.8 A similar consultation is also being undertaken by the Scottish Executive

in relation to the application of the RO Reform proposals to the Renewables Obligation in Scotland. A copy of that consultation document is available at:

<http://www.scotland.gov.uk/Topics/Business-Industry/Energy/19185/ROCons08BPR>

1.9 Responses to this preliminary Consultation will be used to inform the development of a detailed statutory consultation that will be held later this year on the changes to the Renewables Obligation Order (Northern Ireland) 2007 to implement the reform proposals.

How to respond

1.10 Responses to this consultation should be forwarded to reach DETI **on or before 10 July 2008** and may be sent either:

by e-mail to:

NIROREFORM2008@detini.gov.uk

by post to:

**Malachy McKernan,
Sustainable Energy
Department of Enterprise, Trade
and Investment
Netherleigh
Massey Avenue
BELFAST
BT4 2JP.**

All responses should include the name and postal address of the responder.

1.11 The Department recognises that the timescale for responses to this consultation is less than the 12-week period that is recommended as good practice in the Consultation Criteria at Annex D. However, this is a Preliminary Consultation seeking initial comment on the broad issue of banding and will be followed later this

year by a detailed statutory consultation of the detail; it is intended that the statutory consultation will have a response timescale in line with Consultation Criteria.

Confidentially & Data Protection

- 1.12** Your response may be made public by the DETI. If you do not want all or part of your response or name made public, please state this clearly in the response by marking your response as 'CONFIDENTIAL'. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.
- 1.13** Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA)). If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
- 1.14** In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

Help with queries

- 1.15** Questions about the policy issues raised in the document can be addressed to:

Malachy McKernan
Sustainable Energy Branch
Department of Enterprise,
Trade and Investment
Netherleigh
Massey Avenue
BELFAST
BT4 2JP

E-mail:
malachy.mckernan@detini.gov.uk

Telephone:
028 9052 9269

Copies of the Consultation

- 1.16** This Consultation document is being produced primarily in electronic form and may be accessed on the DETI Energy website: www.energy.detini.gov.uk or may be obtained from the address above or by telephoning 028 9052 9574.
- 1.17** If you require access to this Statutory Consultation document in a different format – eg Braille, disk, audio cassette – or in a minority ethnic language please contact the Department on 028 9052 9574 and appropriate arrangements will be made as soon as possible.

PROPOSED REFORM OF THE NORTHERN IRELAND RENEWABLES OBLIGATION

2

The Northern Ireland Renewables Obligation (NIRO)

- 2.1** The Northern Ireland Renewables Obligation (NIRO) is the main policy mechanism for supporting the development of large scale renewable electricity in Northern Ireland. It was introduced by the Renewables Obligation Order (Northern Ireland) 2005 and has been subsequently subject to amendment to take account of refinements made to the Obligations both in NI and in GB where similar Obligations operate in tandem with the NIRO. The NIRO currently operates under the Renewables Obligation Order (Northern Ireland) 2007¹ as amended by the Renewables Obligation (Amendment) Order (Northern Ireland) 2007² to take account of its operation within the new Single Electricity Market on the island of Ireland with effect from 1 November 2007.
- 2.2** The NIRO places a legal requirement on electricity suppliers to account each year for a specified and increasing proportion of their electricity as having been supplied from renewable sources or to pay a buy-out fee that is proportionate to any shortfall; in 2008/09 that

proportion is 3.0% of a supplier's sales. The NIRO operates in tandem with two similar Obligations in GB – the 'RO' in England & Wales and the 'ROS' in Scotland. Evidence of compliance is by way of Renewables Obligation Certificates (ROCs) issued to generators for each megawatt-hour (MWh) of eligible output. These ROCs are issued by OFGEM, the GB Energy Regulator, across the three UK Obligations and, in Northern Ireland, OFGEM act on behalf of the Northern Ireland Authority for Utility Regulation (NIAUR) which has statutory responsibility for the administration of the NIRO. ROCs issued in Northern Ireland under the NIRO are specifically referred to as NIROCs and are tradable with ROCs issued under the GB Obligations (GBROCs) with which the NIRO operates in a UK-wide market for ROCs.

- 2.3** The buy-out alternative to presenting ROCs, which is £35.76/MWh in the 2008/09 Obligation period, gives a value to ROCs and they have typically traded between £40 - £50. The higher value of ROCs compared with the Buy-Out price is due to two factors:
- (a) the level of the Obligation (at overall UK level) in each year is set higher than the actual level of renewable generation so

¹ SR 2007 No. 104

² SR 2007 No. 440

some suppliers will have to pay the Buy-Out; and,

- (b) the Buy-Out Fund proceeds are redistributed among suppliers, at the end of each Obligation period, of the Buy-Out Fund proceeds among suppliers in proportion to the number of ROCs they produced in settlement of their Obligation for that period.

Reform of The Obligation

2.4 Banding of the Renewables Obligation was the core element of the BERR Consultation published in May 2007 on the Reform of the Obligation. It provides for a change from the present system of issuing 1 ROC for each MWh of eligible output to one whereby the number of ROCs issued per MWh is determined by the technology involved so that the more costly emerging technologies such as wave and tidal generation would receive more than 1 ROC while more established technologies would receive less. In seeking to determine the relative costs of the renewable technologies BERR commissioned a detailed analysis of the costs of various technologies and this analysis was published alongside the Consultation.

2.5 The main objectives of a banded Obligation are to:

- Bring on additional deployable technologies by providing appropriate levels of support and certainty for future investments through the RO while maintaining broadly similar costs to consumers;
- Protect the position of existing renewable energy projects and investors and also those projects under construction or which come into operation prior to the introduction of the new regime; and

- Allow adjustments to the RO to avoid over-subsidy of technologies as costs and revenues evolve.

2.6 The Banding process would involve two main related considerations:

(i) 'Grandfathering': a procedure intended to meet the legitimate expectations of existing projects whose technologies would be allocated less than 1 ROC under the Banding arrangements: this would allow those projects to retain their current ROC entitlement after banding although the proposals did consider exceptions to this procedure.

(ii) 'Headroom': this is the gap that must be maintained between the Obligation level and actual renewables generation in each year to ensure a proper functioning ROC market. Under the present arrangements the Obligation is measured in terms of a percentage of a supplier's sales each year whereas the banded Obligation will require it to be expressed in terms of the number of ROCs needed. A process for calculating 'Headroom' on a ROC basis will therefore be needed using estimates of the amount of electricity to be generated under each of the technologies.

2.7 The following paragraphs outline the BERR decisions on these proposals and invite comment on any issues that may be specific to Northern Ireland in relation to each of the decisions. In addition, paragraph 2.17 considers a number of other associated matters that were considered as part of the BERR Consultation and, again, invites comment on the appropriateness or otherwise of the BERR decisions in the Northern Ireland context.

Banding

2.8 The banding proposals are detailed at Annex A.

2.9 An additional Band ('Established 2') has been added to that proposed in the original BERR consultation; this recognises representations made in relation to these 'Established 2' technologies for which it had initially been proposed to allocate 0.25 ROCs/MWh. Included in this new higher (Established 2) band are co-fired non-energy crops. However, it is intended that the cap on the proportion of a supplier's obligation that can be fulfilled by these ROCs issued will be retained at a level of 10% of the number of ROCs.

2.10 It is proposed therefore that Landfill Gas will now be the only technology allocated to the lowest (0.25ROC/MWh) band. In this particular context, there have already been some suggestions that Landfill Gas generation in Northern Ireland does not merit such a small allocation in view of, for example, the absence of any such generation to date and the economies associated with our comparatively smaller Landfill sites.

2.11 A further noteworthy change from the original BERR consultation proposals is the decision to award Microgeneration (regardless of the technology) a support level of 2 ROCs/ MWh (Emerging Band). Microgeneration is defined as generating stations with capacity of 50kW or less.

Are there any specific Northern Ireland aspects that need to be considered in the application of these proposed bandings (Annex A) – and especially the lower bandings – to the NIRO?

Grandfathering

2.12 The Grandfathering proposals are detailed at Annex B.

2.13 Key points in relation to these proposals are:

- (a) These grandfathering provisions will not apply to small generators (50kW or less). All small generators will be placed in the microgeneration band (2ROC/MWh) regardless of their technology type and when their plant was installed.
- (b) Grandfathering will not apply to co-firing so existing co-firing plant will move to the new lower band.
- (c) Grandfathering entitlements will not be timebound (as proposed in the original BERR Consultation) but will continue until 2027 (the current end date for the Renewables Obligation)
- (d) Consideration is still being given to the case made by the small number of existing 'dedicated biomass' or 'advanced conversion technology' projects that they will have difficult competing with new projects that will enter on a higher band if they too are not allowed to 'band up'.
- (e) To take account of possible State Aid implications it is intended that generators who wish to 'band up' may be required to repay a relevant proportion of any grant they may have received in respect of the generating station. The detail of this will be considered as part of the statutory consultation that will be undertaken later in the year on the detailed changes required to the NIRO Order.

Are there any specific Northern Ireland aspects that need to be considered in the application of these Grandfathering proposals to the NIRO?:

Headroom

2.14 A critical element to the viable operation of a Renewables Obligation is that the Obligation level is set at a higher level than actual renewables generation; this situation requires some suppliers to make payments into the buy-out fund which is recycled and gives ROCs a value that is higher than the buy-out level. The original BERR Consultation document on the Reform of the Obligation had proposed a 6% gap (as measured in ROCs) but having studied the figures provided by consultation respondents, BERR is now of the view that 8% is an appropriate figure and has amended its proposals accordingly. It is proposed therefore that the Renewables Obligation in any year will be set at a level calculated on the basis of the number of ROCs that are expected to be issued in that year plus 8%.

2.15 Because of the operation of the all three Obligations in a single market for ROCs and the fact that the ratio of ROCs issued to the RO level is not the same for each Obligation area it is proposed that the 8% calculation will be done on a UK-wide basis and applied in proportion to supply in the respective Obligation areas. However, this is one area where special treatment will have to be applied to Northern Ireland because the current NIRO level (based on electricity supplied) is lower than that in the other Obligations (3.0% in 2008/09 against 7.0% in GB; 6.3% in 2012/13 against the GB level of 12.4%). This special arrangement was agreed for Northern Ireland in recognition of the potential impact of the NIRO on Northern Ireland's already relatively high electricity prices.

2.16 The detail of the Headroom calculation will form part of the statutory consultation later in the year and will respect the lower level of the NIRO that has been projected to 2012.

Are there any specific Northern Ireland issues (in addition to or associated with that outlined at paragraph 2.15) that should be taken into account in relation to the Headroom calculations for the NIRO?

Other Associated Issues

2.17 Other decisions included in the BERR response document are:

- (a) Cliff-Edge Mechanism:
As part of this 'headroom' mechanism, the original consultation had identified a couple of options for 'cliff-edge' mechanisms to address the possibility of overcompliance of the RO (through setting insufficient headroom) leading to a crash in the value of ROCs. BERR has not yet come to any conclusion on which if any mechanism to include in the Order and it is proposed that this will be taken following further consultation, including the statutory consultation carried out alongside the new NIRO Order, due to be issued later in 2008.
- (b) Funding for the Administration of the Renewables Obligation:
It is proposed that the costs incurred by NIAUR and OFGEM in administering the Obligations will be met from the Buy-Out Fund before it is redistributed among those suppliers that have presented ROCs in compliance with their obligation.
- (c) Sustainability reporting
It is intended to introduce procedures requiring biomass users to provide information

which will allow for an assessment to be made as to the sustainability of the biomass they use for generation. However, in order to make the reporting requirements as light as practicable it is proposed that generators under 50Kw will be excluded from the requirement.

(d) Deeming the biomass fraction of Waste

For those energy from waste generating stations that are eligible to claim NIROCs for the biomass fraction of their waste it is intended that a 'deemed' amount of fossil fuel can be used as a cost-effective alternative to measuring the biomass content. It is proposed that a deemed amount of 50% for the fossil fuel amount will be used initially, increasing over time to 65%.

(e) Making the RO 'neutral to waste'

Currently co-firers are prevented from claiming NIROCs in respect of any month during which they have burnt both waste and biomass. Following representations on this point it is intended to make the NIRO neutral to certain types of waste thereby allowing co-firers to claim NIROCs on the biomass element even if this waste is burned alongside it.

Are there any specific Northern Ireland aspects that need to be considered in relation to the above proposals?

NEXT STEPS

3

Legislative Process

3.1 Reform of the NIRO involves a two-step legislative process. First, the primary legislation on which the NIRO is based - Articles 52 to 55 of the Energy (Northern Ireland) Order 2003 - needs amendment similar to the amendments currently being carried out to the corresponding primary legislation in GB through the Energy Bill which is progressing through Westminster at present. Second, the detailed subordinate legislation – The Renewables Obligation Order (Northern Ireland) 2007 – will require amendment to encompass the detail of the new banding arrangements.

Energy (Amendment) Order

3.2 A draft of the Energy (Amendment) (Northern Ireland) Order is at Annex C of this preliminary Consultation. The draft Order which reflects the amendments currently being made to the corresponding legislation in GB, encompasses the principle of banding by replacing Articles 52 to 55 of the Energy (Northern Ireland) Order 2003 as follows:

- (i) Article 52 gives DETI powers to impose an obligation on electricity suppliers to produce certificates (NIROCs) in respect of electricity supplied in a specified period; these powers would be implemented by way of

a piece of subordinate legislation (a NIRO Order).

- (ii) Article 53 outlines the conditions that could be contained within a NIRO Order in relation to how suppliers meet their obligation. In particular, it provides for a NIRO order to determine how the level of a supplier's obligation is to be calculated and to specify that certain types of NIROCs (eg NIROCs in respect of a specified renewable energy source) shall be used to satisfy all or part of that obligation.
- (iii) Article 54 provides for a NIRO order to enable NIAUR to issue NIROCs in relation to renewable electricity generated by one or more operators provided it is supplied in one or more specified ways to customers in Northern Ireland; it also provides for NIAUR to be allowed powers to revoke such certificates. Paragraph (10) restates the existing provision precluding a NIRO order from issuing NIROCs in respect of offshore generation; these are issued under the GB Renewables Obligation order.
- (iv) Article 54A makes provision for the renewables order to

determine the circumstances (including the type of renewable source) in which NIROCs will be issued including, at paragraph (9), provision for treatment of NIROCs issued in respect of electricity generated under the Non-Fossil Fuel Obligation (NFFO) contracts (referred to as 'qualifying arrangements').

- (v) Article 54B provides for the banding of a renewables obligation by enabling the amount of electricity to be stated in each certificate to vary according to renewable source from which, or the circumstances in which, it was generated. It also outlines the matters that should be considered by DETI in determining or reviewing the banding arrangements.
- (vi) Article 54C introduces a power to make transitional provisions in relation to existing projects once a renewables order containing banding provisions is introduced; this covers the 'Grandfathering' arrangements. It also provides for a renewables order to include a requirement for repayment of grants received by some generators in cases where they also benefit from the introduction of the banding arrangements.
- (vii) Article 54D restates existing provision relating to the use of certificates issued by the Great Britain authority in meeting the obligation of a Northern Ireland supplier.
- (viii) Article 55 restates existing provision for a supplier to make a buy-out payment as an alternative means of discharging his renewables obligation in whole or in part.
- (ix) Article 55A provides for the redistribution to suppliers of payments made in respect of the buy-out alternative while Article 55B introduces a new power to allow the costs associated with the Authority's administration of

the Renewables Obligation to be met. from payments made in respect of the buy-out alternative.

- (x) Article 55C provides for a NIRO order to entitle NIAUR to request such information as it needs to carry out its functions under the order; it includes a new specific provision in relation to information about biomass used in generation.
- (xi) Article 55D restates ancillary provisions in relation to a NIRO order and includes, at paragraph (2), provision for the treatment of NIROCs issued before the banding provisions are introduced.
- (xii) Article 55E places a statutory duty on DETI to consult with specific persons before making a NIRO order.
- (xiii) Article 55F defines terms used in Articles 52 to 55E. It also makes new provision at paragraph (3) for a NIRO order to define circumstances in which electricity is regarded as having been supplied in Northern Ireland – a provision intended to take account of the operation of the Single Electricity Market on the island of Ireland

Do you have any comments on any of the provisions in the draft Energy (Amendment) (Northern Ireland) Order (Annex C)?

The Renewables Obligation Order (Northern Ireland)

- 3.3** The detail of the banding process will be contained in legislation that will replace the existing Renewables Obligation Order (Northern Ireland) 2007. It is intended that the revised legislation will be put in place in March 2009 for implementation with effect from 1st April 2009.

- 3.4** The revised Renewables Obligation Order will be the subject of a statutory consultation that is planned to commence in August 2008. The statutory consultation will be informed by responses to this preliminary Consultation.

Consultation Process

- 3.5** The outcome of this Preliminary Consultation will be used to identify specific Northern Ireland aspects that may need to be developed alongside the BERR proposals for the banding of the Renewables Obligation in Northern Ireland.
- 3.6** A statutory consultation on the detailed application of banding to Northern Ireland (and the necessary amendments to the NIRO Order) is planned to commence in August 2008. The statutory consultation will take on board where appropriate, specific issues raised in this Preliminary Consultation and will be the main opportunity for stakeholders to present views on the detail of the proposed banded NIRO.

Annex A – Banding Proposals

<u>Band</u>	<u>Technologies</u>	<u>Level of support ROCs/MWh</u>
<i>Established 1</i>	Landfill gas	0.25
<i>Established 2</i>	Sewage gas, co-firing on non-energy crop (regular) biomass	0.5
<i>Reference</i>	Onshore wind; hydro-electric; co-firing of energy crops; Energy from Waste with combined heat and power; geopressure; other not specified	1.0
<i>Post-Demonstration</i>	Offshore wind; dedicated regular biomass	1.5
<i>Emerging</i>	Wave; tidal stream; fuels created using an advanced conversion technologies (anaerobic digestion; gasification and pyrolysis); dedicated biomass burning energy crops (with or without CHP); dedicated regular biomass with CHP; solar photovoltaic; geothermal, tidal Impoundment (e.g. tidal lagoons and tidal barrages (<1GW)); Microgeneration	2.0

ANNEX B – Grandfathering Proposals

Generator Type	ROC Entitlement			
	Technologies Banded Up		Technologies Banded Down	
	Normal	Exceptions	Normal	Exceptions
<i>Large generating stations (with a DNC over 50kW) with a full accreditation date prior to 11 July 2006</i>	1 ROC per MWh	Additional capacity – treated as if it was a new generating station	1 ROC per MWh	Additional capacity – treated as if it was a new generating station Co-fired generation will be exempt from grandfathering
<i>Large generating stations which receive preliminary accreditation by 1 April 2009 and full accreditation by 31 March 2011.</i>	Move up into new band	Projects in receipt of capital grants – receive 1 ROC per MWh unless they return their grants	1 ROC per MWh	
<i>All other large generating stations</i>	Move up into new band	Projects in receipt of capital grants – receive 1 ROC per MWh unless they return their grants	Move down into new band	

Annex C – Draft Energy (Amendment) (Northern Ireland) Order

See separately Attached File

Annex D - Consultation Criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The complete code is available on the Cabinet Office's web site, address

**[http://www.cabinet-office.gov.uk/
servicefirst/index/consultation.htm](http://www.cabinet-office.gov.uk/servicefirst/index/consultation.htm)**

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Energy Division

Department of Enterprise,
Trade and Investment
Netherleigh, Massey Avenue
BELFAST BT4 2JP

E: energy@detini.gov.uk
T: (028) 9052 9900
F: (028) 9052 9549
www.energy.detini.gov.uk