

The United Kingdom Environmental Law Association

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Thank you for the invitation in your email of 16 May 2005 to comment on whether the structure of the consolidated Renewables Obligation Order could be made simpler following the general review of the Order (whilst remaining consistent with the primary legislation and the underlying policies). The Climate Change Working Group of UKELA met to discuss the issue on 6 June 2005 and this letter represents the key recommendations which came out of that meeting. We apologise for the delay in sending this to you.

In general terms, we agree with the position set out in the supplementary memorandum to the Joint Committee on Statutory Instruments regarding the 2005 Order that the Renewables Obligation should be contained in one consolidated instrument. This approach provides stakeholders and professional advisers with the confidence that they are looking at the complete and up-to-date scheme. Our key recommendations relate to the way in which the consolidated Order is laid out. Clearly, the incremental addition of amending Orders to the original Order has already created a lengthy instrument which is increasingly difficult to navigate. We agree that next year's amending Order is a good opportunity to improve the structure of the Order instead of allowing another set of amending provisions to make it even more inaccessible.

With the above in mind, we suggest:

- An index at the front of the Order;
- Splitting the index/regulations into parts which represent discrete areas (e.g. ROC Eligibility, ROCs, NIROCS, replacement ROCs, the Late Payment Mechanism etc.);
- On the basis that each of the above discrete sections will contain obligations for various parties and that it may still be difficult to determine the overall effect of the regulations on generators without having to read each and every section, perhaps an obligations checklist could be included at the front of the regulations for generators (and possibly even for different categories of generator, e.g. biomass, co-firing etc.). The checklist could form part of the index;

- Moving some of the procedural mechanisms into schedules. For instance, that ROCs will only be issued when the criteria set out in schedule [x] have been met and/or certain information listed in schedule [x] have been provided;
- Where the Authority is required to be satisfied before approving a procedural step, perhaps refer to a schedule which sets out the general principles which will be applied by the Authority. Such principles could then be supported, if deemed necessary, by technical guidance containing further detail and/or examples;
- Again, the provisions relating to payment periods and mutualisation could perhaps be exemplified in a scheduled table or flow diagram (which could be supported by technical guidance containing examples);
- The use of a table and/or flow diagram in relation to eligibility for ROCs, perhaps in a schedule if not in the main body of the Order. We think that clarity on this point may play a part in generating confidence in the scheme. If the complex qualifications cannot be comfortably presented in a table/diagram, the references to the different renewable technologies could cross-refer to elsewhere;
- Certain articles could be split into a number of smaller articles. For example, Article 4 covers six pages of A4 and spans a number of distinct procedural steps and obligations (e.g. accreditation, generator's supply declaration, NIROCs, grounds for refusal of ROCs, calculation period for smaller generators, calculation period for biomass generators etc.). Splitting such articles would allow for helpful headings to be introduced for each new article; and
- Certain definition could be revisited. For instance, the definition of "renewables obligation" is particularly indecipherable.

Many of these suggestions are no doubt already in your mind and we have not therefore elaborated too much on any of them. As an example of a consolidated instrument which adopts many of these structural methods, we would refer you to the Greenhouse Gas Emissions Trading Scheme Regulations 2005.

We hope these comments are helpful.

Yours sincerely



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for the UKELA Climate Change Working Group