



Consultation

Consultation on Transition from the Northern Ireland Renewables Obligation to Contracts for Difference and Grace Periods

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FOREWORD



Since the Northern Ireland Renewables Obligation (NIRO) was first introduced in Northern Ireland in 2005 we have seen the contribution from renewables increase from 3% to approximately 20% now. That is a significant achievement and the renewables industry is to be congratulated for embracing the challenge of contributing to the UK's wider renewable energy targets and our own Strategic Energy Framework goals. But these are challenging times for the renewables industry and much has changed since the NIRO's introduction in 2005.

The NIRO has worked extremely well for Northern Ireland as part of the wider Renewables Obligation (RO) mechanism across the UK. But that reliance on working within a UK context also means that GB policy inevitably influences renewables policy in Northern Ireland. Like the ROs in GB, the NIRO will close to new generation in 2017 as a result of the implementation of UK-wide Electricity Market Reform (EMR). The introduction of Contracts for Difference (CFDs) to incentivise large scale renewables at least cost to the consumer brings with it a fundamental change in how renewables are supported. The results of the recent CFD Allocation Round show that the renewables industry must continue to drive down costs in order to secure support.

I am very mindful of NI developer's concerns that our later entry into the CFD process will limit opportunities within a decreasing budget imposed by the Levy Control Framework and my Department have been working with DECC at all levels on the need to ensure that the CFD process takes account of the different market arrangements in Northern Ireland.

These discussions, which have been about securing the best outcome for both Northern Ireland developers and consumers, have been ongoing. This has unavoidably delayed publication of this consultation and contributed to investor uncertainty. I cannot delay consultation any longer. Indeed, the need to keep the process on track means a shorter consultation period. The consultation document must be read within the context of our ongoing negotiations with DECC on wider EMR issues. I very much welcome your contributions to this consultation process.

A handwritten signature in black ink that reads "Arlene Foster". The signature is fluid and cursive, written in a professional style.

Arlene Foster MLA
Minister of Enterprise, Trade and Investment

INTRODUCTION

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Purpose of the consultation

- 1.1 As part of UK-wide implementation of Electricity Market Reform (EMR), the Northern Ireland Renewables Obligation (NIRO), along with the Renewables Obligation (RO) in England and Wales and the Renewables Obligation Scotland (ROS), is being closed to new generation on 31 March 2017.
- 1.2 This consultation sets out proposals for the operation of the NIRO during the period of transition to the new Contracts for Difference (CFD) support mechanism for large scale generation above 5MW. It also sets out arrangements for grace periods for eligible generating stations.
- 1.3 The policy for transition from the NIRO to Contracts for Difference and associated grace periods is set within the context of the UK-wide Levy Control Framework (LCF), which recognises the importance of monitoring and controlling the cost of energy schemes that consumers fund through their energy bills. The LCF sets annual limits on the overall costs of low carbon electricity levy-funded policies until 2020/21. These include the three ROs across the UK, the GB small-scale Feed-in Tariff and CFDs (including Investment Contracts). Whilst energy policy is devolved, support for renewables within Northern Ireland falls within the LCF framework.

Consultation Process

- 1.4 The Consultation opens on Friday 13 March 2015 and will **close for responses at 5.00pm on Wednesday 15 April 2015.**

Implementation

- 1.5 The proposals relating to NIRO transition will be included in a Renewables Obligation Order (Northern Ireland) 2015 to come into operation later this year. Proposals relating to grace periods will be included in a Renewables Obligation Closure Order (Northern Ireland) 2015 to come into operation in mid 2015.

- 1.6 The legislative powers required to introduce a Closure Order will be taken beforehand through an amendment to the Energy (Northern Ireland) Order 2003. All three Orders are subject to approval of the Northern Ireland Assembly.

Support for small scale generation after the closure of the NIRO

- 1.7 DETI continues to discuss with DECC how Northern Ireland generators and suppliers can participate in the existing GB small scale Feed-In Tariff (FIT) following closure of the NIRO. A review by DECC of the small scale FIT is due to be undertaken during 2015 and DETI has received assurances that Northern Ireland's integration into the FIT will be considered as part of the review. The outcome of the review will not be known until the end of 2015 at the earliest. Further clarity cannot be provided until the outcome of DECC's review is known.

How to respond to this consultation

- 1.8 Responses to this consultation should reach DETI on or before **5.00pm on Wednesday 15 April 2015** and should be sent, preferably by e-mail, to:

NIRO2015@detini.gov.uk

or by post to:

**Renewable Electricity Branch
Department of Enterprise, Trade and Investment
Netherleigh
Massey Avenue
BELFAST
BT4 2JP**

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

Confidentiality & Data Protection

- 1.9 Your response may be made public by DETI and placed on the DETI website as part of the consultation process. 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.
- 1.10 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.

1.11 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.

Copies of the Consultation

1.12 This Consultation document is being produced 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 9240.

1.13 If you require access to this Statutory Consultation document in a different format – eg Braille, disk, audio cassette, larger font – or in a minority ethnic language please contact the Department on 028 9052 9240 and appropriate arrangements will be made as soon as possible.

TRANSITION TO CONTRACTS FOR DIFFERENCE FOR LARGE SCALE GENERATION

2

Introduction

- 2.1 One key aspect of Electricity Market Reform (EMR) is the transition from the Northern Ireland Renewables Obligation (NIRO), the current main support mechanism for renewable electricity generation, to Contracts for Difference (CFD), the new support mechanism for low-carbon electricity generation over 5 megawatts (MW) installed capacity. The Department of Energy and Climate Change (DECC) set out the overarching policy on Transition in the July 2011 White Paper *Planning our electricity future*, in which they announced the intention to close the Renewables Obligation to new generating capacity from 31 March 2017. In a statement in May 2012, the DETI Minister also confirmed the closure of the NIRO to new generation from 31 March 2017.
- 2.2 In March 2014, DECC published its response to a consultation paper setting out proposals for the operation of the RO during the transition period, which in Great Britain, runs from the point of introduction of CFDs in 2014 to the end of March 2017 when the RO closes to new capacity. As CFDs will not be available to generators in Northern Ireland before October 2016, Northern Ireland was not included as part of the DECC consultation.
- 2.3 Our overall policy intent is required to remain consistent with the rest of the United Kingdom on transition matters, so far as is possible. However, the later availability of CFDs to Northern Ireland generators does need to be reflected in our transition arrangements.

Transition Period

- 2.4 During the transition period in GB, operators have a one-off choice of scheme between the RO and CFD for support for new generating stations. As operators in Northern Ireland will not be able to apply for a CFD before October 2016, the earliest a contract could be signed, if successful, would be January/February

2017. This is unlikely to leave unsuccessful CFD applicants (including those that might have had a CFD application rejected at the earlier initial stage) time to then apply under the NIRO. Therefore, we propose that the brief Northern Ireland transition period (from CFD opening in October 2016 to NIRO closure on 31 March 2017) will not allow a station to apply for the NIRO if it has been rejected from the CFD process, however we seek views on this proposal.

Eligibility

- 2.5 The rules proposed below in relation to the choice of scheme will operate so as to ensure that particular generation can only get one form of support, regardless of who makes the application in respect of that generating station or generating capacity. It will not be possible for different individuals, companies or organisations to make different choices or applications in respect of the same generating station or generating capacity.
- 2.6 The one-off choice will be exercised by applying for a CFD, or by applying for accreditation under the NIRO. Eligibility for support will be subject to the eligibility criteria and application processes for the scheme chosen.
- 2.7 Not all renewable technologies which are eligible for NIRO support are being offered a strike price at this time. Technologies which are not being offered a CFD strike price or case-by-case CFD consideration will not be able to access the choice of scheme at this time, in line with CFD eligibility criteria.
- 2.8 DETI will not permit operators to receive support for the same generating capacity under both CFDs and the NIRO, whether during the transition period or at any later date (with the exception for biomass co-firing as outlined later in this chapter). This is necessary to prevent over-compensation.
- 2.9 **In that context, in line with the position in Great Britain, DETI proposes that once an operator applies for a CFD for a new generating station (or a CFD for additional capacity at an existing NIRO station), that generating station (or additional capacity) will not be eligible for accreditation under the NIRO.**
- 2.10 Operators will be notified in January/February 2017 if they have been successful or otherwise in obtaining a CFD. If unsuccessful, we are of the view that there would not be time to accredit under the NIRO before 31 March 2017.
- 2.11 Similarly, if an operator chooses to apply for accreditation under the NIRO for a new generating station and gains accreditation, that generating station will not be eligible for a CFD in respect of its accredited capacity, although the operator may still apply for a CFD for additional capacity of more than 5MW which is added to the station after 31 March 2017.
- 2.12 Generating capacity which has received support under the NIRO will not be eligible for support under a CFD, even if it has reached the end of its period of support under the NIRO (NIRO support runs to 2037 or for 20 years, subject to

the 2037 end date). This is because DETI consider that the capital costs of the generating capacity should have been recovered over the term of NIRO support.

- 2.13 Separate rules are proposed for NIRO-accredited fuelled stations which are being converted fully to biomass on a unit or station-wide basis.

Point at which Choice of Scheme occurs

- 2.14 The one-off choice of scheme will apply at the point:

- a. An operator applies for NIRO accreditation; or
- b. An operator applies for a CFD.

- 2.15 An application for NIRO preliminary accreditation will not be regarded as making a one-off choice for the NIRO. If a CFD application is successful then NIRO preliminary accreditation cannot be converted to full NIRO accreditation.

NIRO Preliminary Accreditation

- 2.16 NIRO preliminary accreditation does not itself entitle an operator to NIRO support. On that basis, as noted above, we propose that NIRO preliminary accreditation should not constitute a choice of scheme within the transition period. Operators will be entitled to apply for NIRO preliminary accreditation alongside applications for a CFD, if they wish to do so.
- 2.17 Once a station has applied for a CFD, it will have exercised its choice of scheme, and in that case we propose it should not be allowed to subsequently apply for preliminary accreditation under the NIRO.

Application Process for New Generating Stations

- 2.18 The NIRO and CFDs are subject to separate application processes, managing bodies and timescales, as follows:
- a. NIRO accreditation applications are submitted to Ofgem, and the ongoing support is likewise administered by Ofgem. Stations must be commissioned before an application for accreditation can be granted. Under current Ofgem process, operators can apply for accreditation up to two months before commissioning, and Ofgem will then consider the application and determine eligibility for accreditation under the NIRO;
 - b. Applications for CFDs for renewable generation will be submitted to National Grid, and the ongoing support will then be administered by the Counterparty Body (the Low Carbon Contracts Company (LCCC)). The CFD allocation process will provide earlier certainty of CFD award by enabling operators to apply for a CFD at an early stage in the project development.

- 2.19 In that context, it is necessary to ensure that clear processes for managing the Choice of Scheme opportunity are in place. In respect of applications for support under the NIRO, these processes will be set by Ofgem on the basis of provisions within the Renewables Obligation Order (Northern Ireland) 2015.

Consultation Questions

1. Do you agree that during the brief period between CFD opening and NIRO closure stations should be prevented from applying for the NIRO if they are unsuccessful in gaining a CFD?
2. Do you agree that the choice of scheme for new generating stations should take place at the point of application for a CFD?

Additional Capacity

- 2.20 During the transition period, operators adding additional capacity of more than 5MW to a generating station accredited under the NIRO will have a one-off choice of scheme between the NIRO and CFD in relation to that additional capacity. DETI's proposals, which are in line with DECC's policy position in relation to the way in which this option should be made available and managed, are set out below.

Definitions

- 2.21 New additional capacity is defined as new generating capacity added to a NIRO-accredited generating station (i.e. commissioned) on or after the date in October 2016 when CFDs first become available which does not form part of, or replace any, accredited capacity at the station, and which has never been registered for NIRO support.
- 2.22 In the case of new additional capacity, the transition period is defined as beginning on the date in October 2016 when CFDs first become available, when the proposed registration process for new additional capacity under the NIRO would come into operation. The transition period is defined as ending when the NIRO closes to new entrants on 31 March 2017.

Eligibility

- 2.23 During the transition period, and subject to meeting the eligibility criteria for the scheme in question, operators putting in place additional capacity of more than 5MW will be able:
- a. **Either** to apply to register that additional capacity under the NIRO;
 - b. **Or** to apply for a CFD in respect of that additional capacity.

- 2.24 The original accredited capacity at the station will remain within the NIRO in both cases, as will any additional capacity added to the station before the date in October 2016 when CFDs first become available.
- 2.25 The choice of scheme for additional capacity is available only for additional capacity added to a NIRO accredited station during the transition period. Following the closure of the NIRO to new capacity on 31 March 2017, operators of NIRO-accredited stations will continue to be able to apply for a CFD in respect of support for new additional capacity of more than 5MW at those stations, but will no longer be able to apply to register that additional capacity under the NIRO.
- 2.26 The choice of scheme for additional capacity will be subject to the following restrictions in relation to the NIRO:
- a. Once an operator has applied for a CFD in respect of any additional capacity at a NIRO-accredited generating station, they will not be eligible to register any further additional capacity at that generating station under the NIRO. In other words, the choice will be available only in the direction of NIRO to CFD, not the other way round.
 - b. Applications to register additional capacity under the NIRO will not be eligible if an application for a CFD has been made in respect of the generating capacity, or any part of the generating station.
- 2.27 New additional capacity intending to opt for the CFD will need to meet the CFD eligibility requirements. This is likely to include requirements to ensure that the capacity in each scheme is distinct, and the outputs can be measured separately.

Point at which Choice of Scheme occurs

- 2.28 **In line with the policy position adopted for the other two Renewables Obligations, DETI propose that the one-off choice of scheme for additional capacity will apply at the point at which an application for support is made.** In this context, an application for support constitutes:
- a. An application for registration of the additional capacity under the NIRO;
or
 - b. An application for a CFD in respect of the additional capacity, or in respect of any other part of the generating station.

Registration and Application Processes for Additional Capacity

- 2.29 At the present time, NIRO secondary legislation does not set out a specific application process to allow an operator to realise support on any additional capacity they may add to their station. In practice, operators of NIRO-accredited stations are required to notify Ofgem of any changes to their station, including the addition or reduction in generating capacity. This timeframe is currently within

two weeks of the change occurring as specified within the annually agreed Information Declaration.

- 2.30 In the case of a change in capacity, the operator of the station amends this via Ofgem's Renewables & CHP Register and informs Ofgem of the change. If Ofgem is content, this allows any additional capacity to realise the appropriate level of NIRO support.
- 2.31 During the transition period, in order to manage the choice of scheme for additional capacity, operators who wish to take up the option of NIRO support for additional capacity at a NIRO-accredited station will be required to submit a declaration to Ofgem via the Renewables & Combined Heat and Power (CHP) Register stating that they have not applied for a CFD.
- 2.32 If an operator's application for a CFD is successful, they will be required to advise Ofgem. Further information on this process will be set out in Ofgem guidance.
- 2.33 The requirements set out above are to ensure that Ofgem has the information it requires to manage the support for the NIRO capacity within dual scheme facilities effectively.

Dual Scheme Facilities

- 2.34 NIRO-accredited stations which have applied for and received a CFD in respect of additional capacity will have some capacity supported within the NIRO, and some capacity covered by a CFD. Such generating stations will be termed 'dual scheme facilities'.
- 2.35 In order to prevent the risk of double support, and to manage gaming opportunities, operators of dual scheme facilities will be expected to treat the capacity within each scheme, and the generation that results from that capacity, as distinct and separate. It will be necessary to ensure that electricity and fuel inputs and electricity outputs are attributed to the correct scheme, and this will impose additional monitoring and administrative requirements on operators and on the scheme administrators.
- 2.36 Due to the different nature of the two schemes, the monitoring and administrative requirements of each scheme may likewise be different. This includes the rules set by each scheme to ensure that the capacity and generation in each scheme is distinct and separate. Arrangements which are acceptable for the NIRO may not be acceptable for CFDs, and vice versa.

Output Electricity

- 2.37 It is proposed that the requirement for measuring NIRO generation at dual scheme facilities should be that a metering system be used which:
 - a. Is consistent with standard NIRO metering requirements; and

- b. Demonstrates to Ofgem's satisfaction that the generation for which NIROCs is being claimed is from NIRO generating capacity. For NIRO purposes, this may be done by:
 - i. Separately metering the output from the NIRO generating capacity, or
 - ii. Metering the total station output and deducting the separately metered output from the CFD generating capacity to give the NIRO output.

Input Electricity

2.38 The NIRO scheme requires operators of accredited stations to deduct input electricity from the gross electricity generated by the station in order for NIROCs to be issued. The CFD scheme is also expected to contain requirements to deduct input electricity. Input electricity includes the following kinds of electricity:

- a. Electricity generated by the generating station used to operate the generating station;
- b. Electricity imported from the transmission or distribution network, or any other source;
- c. Standby generation electricity e.g. generation that occurs when a generating station is disconnected from the transmission or distribution network and is used to support the essential services of that generating station.

2.39 In line with the policy position adopted in Great Britain, DETI proposes that for dual scheme facilities, there should be the following options in the NIRO rules for calculating the input electricity for the NIRO:

- a. A pro-rata method, based on the proportion that the CFD capacity bears to the total installed capacity of the generating station. This is then deducted from the total input electricity for the station;
- b. Separate measurement of the input electricity which is used only for the CFD capacity. This is then deducted from the total input electricity for the station;
- c. Separate measurement of all of the input electricity which is used wholly or partly for the NIRO capacity.

2.40 The current metering provisions in the CFD contract for GB obligate the generator to ensure that all input and output electricity associated with the facility are measured separately because CFD Settlement takes place on net metered output. At the time of writing, the provisions for Northern Ireland have still to be finalised however, they are unlikely to differ from the GB position.

Fuel Data

2.41 **DETI also proposes that fuelled dual scheme facilities, for example biomass plants with original capacity accredited within the NIRO, and additional capacity within the CFD, should be required to provide separate fuel data to the two**

managing authorities in accordance with the rules within each scheme. Such a facility would provide fuel data to Ofgem on fuel usage within the NIRO-accredited capacity, and would provide separate fuel data to the CFD Counterparty (or its agent) in accordance with the CFD rules. In this context, such facilities would no longer be able to provide one set of pro-rated fuel data for all capacity, as they may sometimes do at present under the NIRO.

- 2.42 In practice, meeting the metering and fuel data requirements of both schemes is likely to impose additional costs on operators of dual scheme facilities, which operators will wish to take into account when considering their investment decisions. These costs will vary depending on the detailed requirements for CFD capacity, and on the circumstances at the dual scheme facility in question.
- 2.43 As in GB, metering and monitoring arrangements which meet the requirements of both schemes will be key to the prevention of gaming. Without such arrangements in place, it could be possible for an operator to allocate input electricity, generation or fuels to the different schemes differently at different times.

5MW or Less

- 2.44 In its March 2014 government response, DECC confirmed that the choice of scheme would not apply to additional capacity of 5MW or less in Great Britain.
- 2.45 DECC has already determined that installed capacity below 5MW will not be eligible for support under the CFD mechanism in Great Britain due to perceived complexities and the very limited likely number of projects that would seek to accredit additional capacity of this size. Given the requirement for CFDs to apply consistently across the UK, similar arrangements will apply to installed capacity (new and additional) below 5MW in NI.
- 2.46 How small scale renewable electricity will be incentivised post NIRO closure is still under development and further information will be shared with stakeholders later this year.
- 2.47 Up to and including 31 March 2017, NIRO-accredited operators will retain the option of registering additional capacity of 5MW or less under the NIRO, as long as the station has not up to that point applied for, or entered into, a CFD on any of its generating capacity. This is also subject to the new registration process set out above. After that date, DETI is minded not to provide support for additional capacity of 5MW or less at a NIRO-accredited station.

Consultation Questions

3. Do you agree that the choice of scheme for additional capacity should take place at the point of application for a CFD?

4. Do you agree with the proposed registration process, eligibility and evidence requirements, for new additional capacity opting for the NIRO?
5. Do you agree with the metering and fuel measuring requirements proposed for Dual Scheme Facilities?

If you disagree with the proposals, please detail your preferred alternative, and provide evidence supporting it.

Technology-specific Measures

- 2.48 Alongside the generic transition measures set out in the earlier sections of this consultation, additional measures to meet two technology-specific requirements - for biomass plants and for offshore wind - have been introduced in Great Britain.

Offshore technologies

- 2.49 The legislative vires for setting ROC levels for offshore technologies in Northern Ireland waters lies with DECC in the Renewables Obligation Order and not with DETI. **Therefore, the transition proposals for offshore wind adopted by DECC will apply to NI's offshore waters.**

Biomass Co-Firing Stations

- 2.50 **To ensure consistency across all three ROs, DETI proposes that NIRO-accredited biomass co-firing stations should have several specific opportunities as set out in detail below. These opportunities will be open both on a full station and individual unit basis.**
- 2.51 For current purposes, 'co-firing stations' are defined as those fuelled stations which are co-firing and have never received NIROCs at the station conversion or dedicated biomass NIRO Bands at the point at which they apply for or enter into a CFD. Co-firing units are defined as those fuelled units which are co-firing and have never received NIROCs at the unit conversion or dedicated biomass NIRO bands at the point at which they apply for or enter into a CFD.
- 2.52 The opportunities set out below would only be available to biomass co-firers, as defined above.

1. Transfer to CFD: Proposals for Full Stations

- 2.53 Operators of NIRO-accredited biomass co-firing stations will have the option of applying for a CFD for those stations as biomass conversions. This is the one exception to the principle detailed previously, that capacity which has previously received NIRO support will not be eligible for CFD support.

- 2.54 This option will be open to operators of co-firing stations from the point at which CFDs are open for applications, subject to the detailed arrangements in place for both of these schemes. This option is intended to maintain the incentive for operators of biomass co-firers to move towards full conversion.
- 2.55 In order to apply for a CFD, an operator of a NIRO-accredited co-firing station will be obliged to notify Ofgem of its intention to make the application. If successful in its application for a CFD, the operator will be required to complete a CFD transfer notice which will inform Ofgem of the expected commission date. NIRO-accredited capacity at the station will then continue to be entitled to the NIRO for the renewable generation resulting from co-firing, until the conversion takes place. However, it will not be entitled to NIROCs at the NIRO conversion band. At the point of conversion, the station will permanently cease to be eligible to receive NIROCs for its generation and instead be supported under the CFD.
- 2.56 Once a station has successfully applied for a CFD, it will not be able to claim NIROCs at the NIRO station conversion band at any point in the future.
- 2.57 If the schedule for the conversion changes, the operator may continue to receive NIROCs for co-firing generation, subject to keeping Ofgem informed of these changes. If the date changes and the operator does not inform Ofgem before the expected conversion date, the generating station will not be eligible for ROCs in the intervening period. If the operator determines prior to conversion that it is no longer able or willing to convert the station or unit in full, and is therefore withdrawing from its CFD, the station would still no longer be eligible for NIROCs from the point at which it would have converted under the CFD. This is consistent with the policy on the point of choice of scheme.
- 2.58 The opportunity detailed above must be seen within the context of UK-wide established policy on biomass sustainability; that is, that biomass is a transitional technology, and that NIRO support for generating capacity accredited under the NIRO on or before 25 June 2008 will end on 31 March 2027. In order to maintain consistency across the two support mechanisms, the same end date will apply to those plants who take up a CFD as a biomass conversion. Such stations will therefore receive different lengths of CFD support depending upon the point at which they commission and begin receiving CFD payments.

2. Transfer to CFD: Unit by Unit

- 2.59 The conversion opportunity set out in the paragraphs above for operators of NIRO-accredited biomass co-firing stations will be available on the same terms for individual co-firing units, or for groups of co-firing units at co-firing stations. Operators will be able to take up this opportunity for one unit only, or on a unit by unit basis. It will also be open to co-firing units within a biomass station at which other units have been converted under the NIRO. The rules set out above in respect of co-firing stations will apply equally to each co-firing unit. Transfer on a unit by unit basis will not be permitted for those units which have claimed NIROCs under the NIRO unit conversion bands.

- 2.60 Biomass facilities will be defined as dual scheme facilities for the period of time that some units are supported within the NIRO, whether as co-firers or full conversions, and others are fully converted units under CFDs. They will be subject to the provisions for dual scheme facilities set out above in this document during that period of time.

Consultation Question

6. Do you agree with the proposed arrangements whereby biomass co-firing stations or units will be able to leave the NIRO if successful in a CFD application as a biomass conversion?

If not, please detail your preferred alternative, and provide evidence supporting it.

Fixed Price Certificates

- 2.61 The closure of the RO mechanism to new stations will create a closed pool of capacity which will decrease over time as the overall end date of 31 March 2037 for the three ROs is approached. In the July 2011 White Paper, DECC confirmed that this issue would be addressed by calculating the RO annually by headroom until 31 March 2027, and then moving to a Fixed Price Certificate (FPC) Scheme, with the price of certificates fixed at the 2027 buyout price, plus 10%.
- 2.62 Following a request by some stakeholders to reconsider this policy, due to concerns about the perceived possibility that the market price of a ROC might fall below the buyout price and about reductions in Power Purchase Agreement availability, DECC asked stakeholders whether the date for implementing the fixed price certificate scheme should be 2017 or 2027. Whilst there were differing opinions on a 2017 or 2027 introduction for the FPC, DECC concluded that there was no sufficiently clear case made for early introduction of the FPC scheme and that it would maintain the established date of 2027. Full details of DECC's assessment are set out in Section 10 of its government response.¹
- 2.63 **Given the need to retain consistency across all three ROs on this issue, DETI proposes to retain the current policy that the Fixed Price Certificate scheme will be in place in 2027 to cover the last ten years of the NIRO.**

Consultation Question

7. Do you agree with the proposed retention of the current policy that the Fixed Price Certificate scheme will be in place in 2027?

¹ <https://www.gov.uk/government/consultations/transition-from-the-renewables-obligation-to-contracts-for-difference>

Obligation-Setting

- 2.64 In DECC's consultation on RO Transition in July 2013, it was proposed to amend the date of setting the Obligation Level from 1 October to 1 February. However, the majority of suppliers who responded to DECC on this issue disagreed with the move to October citing additional cost to the consumer as the main reason. Given the caution expressed by respondents to a move to February, it was ultimately decided not to proceed with the proposed change, but to continue to set the Renewables Obligation by 1 October each year, six months ahead of the following compliance year.
- 2.65 **As this position has already been adopted for the Renewables Obligation and Renewables Obligation Scotland, it is proposed that the date for setting the Obligation Level for Northern Ireland should remain as 1 October.**

GRACE PERIODS

3

Introduction

- 3.1 As set out in Chapter 2, the Northern Ireland Renewables Obligation (NIRO), along with the Renewables Obligation (RO) in England and Wales and the Renewables Obligation Scotland (ROS), will close to new generation and additional capacity on 31 March 2017.
- 3.2 The unavoidable closure of the NIRO was referenced in DETI's response to the Large Scale Banding Review Consultation in 2012.¹ In November 2013 DECC held a consultation on RO Grace Periods² in relation to the ROs in Great Britain and a Government Response³ was published on 12 March 2014.
- 3.3 Given the tight financial restrictions imposed by the LCF, DETI is not able to differ in principle from the GB policy position. We recognise that a case has been made for grace periods longer than 12 months due to, for example, differences in grid connection policy between NI and GB around clusters. This has been the subject of lengthy discussions between DETI and DECC however the LCF limitations have restricted any flexibility on longer grace periods.
- 3.4 Any variations in our proposals in relation to grace periods are explained in this chapter. One significant variation is that grace periods in Northern Ireland will apply to both large and small scale technologies but excluding those microgenerators connecting using the G83 process.
- 3.5 In order to ensure that the closure of the NIRO to new capacity is placed on a firm legislative basis, and to give certainty to the renewables industry about the way in

¹ http://www.detini.gov.uk/niro_2012_consultation_-_government_response.pdf?rev=0

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255611/RO_Grace_Periods_Consultation_-_November_2013.pdf

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/289078/Transition_and_Grace_Periods_Government_Response_-_12_Mar_2014.pdf

which that closure will be effected in Northern Ireland, a Renewables Obligation Closure Order will set out the date of, and detailed arrangements for, the closure of the NIRO.

- 3.6 This consultation sets out proposals in relation to grace periods.
- 3.7 We intend to lay a Renewables Obligation Closure Order (Northern Ireland) before the Assembly in May/June 2015. This Order will:
- a. Set the date upon which the NIRO will be closed to new capacity as 31 March 2017;
 - b. Set out the detailed grace period arrangements, which constitute exceptions to that date of closure which will apply under certain specified circumstances.
- 3.8 The appropriate legislative powers required to introduce a Closure Order will be taken beforehand through an amendment to the Energy (Northern Ireland) Order 2003. Section 55 of the Energy Act 2013¹ gives DETI the power by Order to amend Part VII of the Energy (Northern Ireland) Order 2003² to mirror the provisions included in the Energy Act 1989 relating to the closure of the Renewables Obligation.

Proposals

- 3.9 The following grace periods will apply:
- a. 12-month grace period to address radar and grid connection delays, where the project was scheduled to commission on or prior to 31 March 2017 (this includes projects connecting to an identified NIE cluster);
 - b. 12-month Enabling Financial Decisions grace period for ACT projects which have obtained preliminary accreditation under the NIRO on or before 31 March 2015. Projects qualifying for this grace period must commission and accredit under the NIRO no later than 31 March 2018; and
- ACT projects which do not have preliminary accreditation but are able to demonstrate that substantial financial decisions and investments have been taken prior to 1 October 2015, and where the project is scheduled to commission on or prior to 31 March 2017 are eligible for a 12 month grace period. To be eligible, these projects will have to undergo a notification process by the later of 1 October 2015 or two months after the Closure Order has been made.
- 3.10 These grace periods are proposed on the basis that the conditions must be straightforward to prove and assess, to ensure that Ofgem is able to determine if a generating station is eligible for the grace period easily and without controversy. It

¹ <http://www.legislation.gov.uk/ukpga/2013/32/part/2/chapter/7>

² <http://www.legislation.gov.uk/nisi/2003/419/part/VII>

is proposed that all grace periods will run for their stated length starting from the day after the NIRO closure date. A project which meets the grace period criteria will be able to gain NIRO accreditation within the grace period, provided that it applies for accreditation and commissions before the end of that grace period. Projects will be able to claim ROCs from the point at which accreditation is received, subject to the usual rules of the NIRO scheme.

- 3.11 It is also important to note that the NIRO will not be extended beyond 2037 for those operators benefitting from any grace period, therefore more extensive grace periods will constitute a reduced length of support.

Radar and Grid Connection

- 3.12 Delays due to radar and grid connection were the criteria on which grace periods were offered at the point at which support levels changed following the Large Scale Banding Review in 2012. Both these forms of delay remain a substantive risk to projects, which can occur at short notice, and which are outside the developer's control. We therefore propose to offer grace periods to any eligible project which suffers from one of these causes of delay, and which was previously expecting to commission on or before 31 March 2017.

- 3.13 We propose that projects which demonstrate that they are eligible for this grace period would have a full 12 months to obtain NIRO accreditation, starting on 1 April 2017.

- 3.14 We propose that developers would be required to demonstrate their eligibility for this grace period by providing Ofgem with the following evidence, which is similar to that required under the grace period provisions introduced for the Large Scale Banding Review:

a. Grid connection:

- i. A letter from the network operator (i.e. NIE or SONI) confirming that the grid connection was made after the grid connection date and that in the network operator's opinion, the failure to make the grid connection on or before 31 March 2017 was not due to any breach of the grid connection agreement by the generator/developer; and
- ii. Evidence of a grid connection offer and acceptance of that offer, both dated no later than 31 March 2017.

b. Radar upgrades:

- i. A copy of a radar works agreement specifying a radar works completion date which is no later than 31 March 2017;
- ii. A letter from a party to the radar works agreement who is unrelated to the generator/developer confirming that the radar works were completed after the agreed date and that the failure to complete the radar works on time was not due to any breach of the radar works agreement by the generator / developer; and

- iii. A written declaration by the generator that, to the best of their knowledge and belief, the station would have been commissioned on or before 31 March 2017 if the radar works had been completed on or before the radar works completion date.
- 3.15 The above eligibility criteria will apply equally to 'direct' connections and those stations connecting into an identified NIE cluster. We also propose that this grace period only would be open to additional capacity at existing NIRO-accredited stations, as well as to new stations. Stations connecting using the G83 'fit and inform' process will not be eligible for this grace period. **To avail of this grace period, generating stations must apply to Ofgem from 1 April 2017 and be commissioned and accredited under the NIRO by 31 March 2018.**

Enabling Financial Decisions prior to CFD introduction

- 3.16 In GB, a grace period was provided for developers making substantial financial decisions and investments prior to 9 November 2014 in relation to projects which are scheduled to commission on or prior to 31 March 2017 but which are delayed at a later stage. This 12 month grace period was limited to Advanced Conversion Technologies (ACT) and offshore wind technologies and required developers to participate in a notification process to Ofgem.
- 3.17 These technologies were identified as those which meet the relevant criteria in full, and which can therefore be deemed to have a greater than average risk of delay in relation to the purpose of this grace period. That relevant criteria is:
- a. Pipeline assessment demonstrates that there are a number of projects which are in the process of moving towards final investment decision and which would not commission until close to the closure of the Renewables Obligation, but would be able to commission prior to closure if they receive access to this grace period;
 - b. Those projects constitute a significant proportion of the known pipeline for that technology, and therefore their progress is relevant to the overall learning and development of that technology;
 - c. The technology still has the opportunity to reduce costs / increase efficiency on the basis of learning from increased deployment; and
 - d. Development and construction periods for that technology are, on average and in combination, lengthy, making the remaining years of the Renewables Obligation less adequate than for technologies which are, on average, speedier.
- 3.18 **DETI proposes to offer a similar grace period for ACT projects in Northern Ireland.** As offshore wind projects are accredited under the Renewables Obligation and not the NIRO, the DECC eligibility criteria would apply for such projects.

Grace period criteria for enabling financial decisions

- 3.19 The purpose of the grace period is to protect ACT projects that are well advanced and have made significant investments during the development phase. We believe that there are two ways that this can be demonstrated by ACT developers in order to secure the grace period:

Preliminary accreditation

- 3.20 Preliminary accreditation under the NIRO has been obtained from Ofgem by 31 March 2015. To have reached this stage, it is reasonable to assume that project development is sufficiently well advanced and would be expected to commission and accredit under the NIRO before its closure. Projects qualifying for this 12-month grace period must commission and accredit under the NIRO no later than 31 March 2018.

Alternative evidence

- 3.21 For those projects which do not have preliminary accreditation by 31 March 2015, in order to be eligible for the grace period they must present the following evidence to Ofgem by 1 October 2015 or two months after the date that the Closure Order comes into operation, whichever is later:
- a. A grid connection offer, accompanied by a letter from the network operator estimating or setting a date for the grid connection which is on or before 31 March 2017;
 - b. Evidence of land rights in the form of a declaration from the individual applying confirming ownership of the land, or had entered into an agreement to lease the land, or had an option to purchase or lease the land; and
 - c. A Director's Certificate confirming that the developer will have sufficient resources to commit to the project and that the project is expected to commission on or prior to 31 March 2017, subject to receiving confirmation of eligibility for this grace period.

Dedicated biomass and Dedicated biomass with Combined Heat & Power (CHP) projects

- 3.22 DECC's RO Grace Period includes an 18-month grace period for dedicated biomass projects (without CHP) which are allocated an unconditional place within the 400MW cap applicable in GB. This grace period was introduced in GB to account for delays in policy formulation surrounding the 400MW cap and uncertainty over the outcome of the biomass notification register and sustainability criteria. As biomass generation in Northern Ireland is not subject to the 400MW cap and, therefore, the associated policy delays, this grace period **will not** apply in NI.

Conclusion

- 3.23 DETI wishes to emphasise that grace periods cannot make the NIRO a risk-free option for all, or even most, possible applicants in the final years before closure. Gaining a grace period does not guarantee entry to the NIRO. Stations will still need to commission by the end of the grace period window.

Consultation Questions

8. Do you agree with the proposal to offer a 12-month grace period for NIRO accreditation delays due to radar and grid connection?
9. Do you agree with the proposed grace period criteria and proposed forms of evidence for radar and grid connection?
10. Do you agree with the proposal to offer a 12-month grace period to ACT projects which a) meet the preliminary accreditation criteria or b) participate in a notification process targeted at developers making investment decisions between now and 1 October 2015?
11. Do you agree with the proposed forms of evidence are appropriate to the purpose of the above grace period, as defined in paragraphs 3.20–3.21?
12. Do you agree with the policy rationale not to offer an equivalent to the 18-month grace period for dedicated biomass and dedicated biomass with CHP projects offered in GB?

If you disagree with these proposals please say why with evidence.

Annex A – Consultation Questions

Consultation Questions

Transition

1. Do you agree that during the brief period between CFD opening and NIRO closure stations should be prevented from applying for the NIRO if they are unsuccessful in gaining a CFD?
2. Do you agree that the choice of scheme for new generating stations should take place at the point of application for a CFD?
3. Do you agree that the choice of scheme for additional capacity should take place at the point of application for a CFD?
4. Do you agree with the proposed registration process, eligibility and evidence requirements, for new additional capacity opting for the NIRO?
5. Do you agree with the metering and fuel measuring requirements proposed for Dual Scheme Facilities?
6. Do you agree with the proposed arrangements whereby biomass co-firing stations or units will be able to leave the NIRO if successful in a CFD application as a biomass conversion?
7. Do you agree with the proposed retention of the current policy that the Fixed Price Certificate scheme will be in place in 2027?

Grace Periods

8. Do you agree with the proposal to offer a 12-month grace period for NIRO accreditation delays due to radar and grid connection?
9. Do you agree with the proposed grace period criteria and proposed forms of evidence for radar and grid connection?
10. Do you agree with the proposal to offer a 12-month grace period to ACT projects which participate in a notification process targeted at developers making investment decisions between now and 1 October 2015?
11. Do you agree with the proposed forms of evidence are appropriate to the purpose of the above grace period, as defined in paragraphs 3.20–3.21?
12. Do you agree with the policy rationale not to offer an equivalent to the 18-month grace period for dedicated biomass and dedicated biomass with CHP projects offered in GB?

If you disagree with any of the proposals please say why with evidence.

Annex B – Equality Assessment

Under section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

In addition, without prejudice to its obligations above, the Department is also required, in carrying out its functions relating to Northern Ireland, to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinions or racial group.

We have carried out an equality screening exercise in relation to these proposals and found that they do not have any significant equality impact. A full Equality Impact Assessment, therefore, is not required. The equality screening form can be accessed on the DETI website¹.

¹ http://www.deti.gov.uk/index/deti-about-home/equality-section-75-of-the-ni-act-1998/equality_screening.htm



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