

## Ofgem E-Serve response to consultation on our draft “Northern Ireland Renewables Obligation: Closure of the scheme to onshore wind ≤5MW”

On 18 July 2016 Ofgem E-Serve published a draft of the ‘Northern Ireland Renewables Obligation: Closure of the scheme to onshore wind ≤5MW’ for consultation. The document was created to provide clear guidance on the closure of the Northern Ireland Renewables Obligation (‘the NIRO’) to onshore wind capacity ≤5MW from 1 July 2016. We published the consultation to seek views from stakeholders on the clarity and detail of the draft guidance.

The consultation period closed on 15 August 2016. We have reviewed all responses and, where appropriate, updated the guidance document. The final version of the document was published on 14 October 2016 and is [here](#).

### The consultation period

We would like to thank all stakeholders who responded to the consultation. We have used your responses to make changes to the final guidance. Table 1 lists the changes we made and explains why we made them. We received a number of queries which we felt did not require changes to the guidance but which we have included answers to in Table 2.

### Comments on the legislation

A number of responses related to the legislation, rather than Ofgem E-Serve’s administration of the scheme and grace periods. We cannot change the legislation, and we must adhere to the requirements of the current legislation in full. All concerns regarding the legislation should be directed to the Department for the Economy in Northern Ireland. Any future changes to the administration of the RO and grace periods would require a change in legislation, our guidance relates to the current legislation.

### Table 1 - Changes to the guidance

Section of the final guidance document	What has changed?
Throughout document	Updated text to reflect that the guidance is final, not draft.
Throughout document	Minor typing errors corrected. This does not affect the content or meaning of the document.
p.8; Paragraph 2.4	Removed “Such capacity is called ‘excluded capacity’ and must be declared to Ofgem E-Serve.” The NIRO Closure (No. 2) Order 2016 does not currently cover excluded capacity, therefore this phrasing has been removed. It is expected that the Department for the Economy will include this in legislation later in 2016.
p.8; Paragraph 2.6	Clarified that generators must apply before the closure of the relevant grace period.
p.16; Paragraph 3.15	Added “We recommend you refer to these pieces of legislation in order to understand which statutes are deemed to be acceptable variations

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	as per the primary legislation” and removed repetition from paragraph 3.14 above.
p.17 – 24	Paragraphing error corrected relating to paragraphs 3.23 onwards in Chapter 3. This renumbers paragraphs from 3.24 onwards in Chapter 3.
p.18 – 21; Tables 2 and 3	Clarified that evidence in the form of documents provided by the network operator or a party to the radar works agreement can be dated before or after the legislation came into force.
p.24; Paragraph 3.36	Clarified that the recognised lender who provides the Investment Freeze letter does not ultimately have to provide funding.
p.24; Paragraph 3.37	Added guidance on the content of the Investment Freeze letter.
p.26; Paragraph 4.7	Added advice to start an application up to two months before the anticipated date of commissioning, should this be close to the cut-off date for the relevant grace period.
p.27; Paragraph 4.25	Clarified the process for micro generators adding additional capacity to an existing NIRO station.
p.28; Paragraph 4.35-4.37	Added guidance on handling technical difficulties when submitting an application.
p.30; Paragraph 4.38-4.42	General rephrasing for clarity. This does not affect the content or meaning of the document.
p.31; Paragraph 4.48	Added “On occasions stations that apply for accreditation and a grace period may also be audited before they are accredited under the RO.”
p.32; QA201; QA301; QA302	Hyperlinks inserted.
p.35; Table 6	Removed duplicated row in table.
p.39; Template 3	Amended wording of declaration to match legislation.

## Table 2 - Our response to queries and suggestions from the consultation

1. Can the grace periods be amended to allow generators who connect to the grid towards the end of the grace period to commission after the end of the grace period?
No. The legislation is clear that a station must be commissioned on or before the final date of the relevant grace period in order to be successful in applying for accreditation after 1 July 2016. Ofgem E-Serve must adhere to the requirements of the legislation.
2. The criteria for a ‘recognised lender’ minimise the opportunity to meet the ‘investment freezing’ condition; can this be relaxed?
No. The definition of ‘recognised lender’ in the Closure Order is unambiguous and we, as the scheme administrators, must administer the scheme in accordance with the regulations as they are written.
3. What if the distribution network operator (DNO) or radar works party won’t provide the required evidence?
The legislation is clear about the information you need to gain from the DNO or radar works party and we encourage you to speak to them about the required evidence. We cannot grant a grace period using the grid or radar delay condition without this information. It may be helpful to show the DNO or radar works party our guidance.
4. Can Ofgem E-Serve amend the evidence requirements for the ‘grid delay’ grace period to allow that developers who paid the full deposit to NIE before 30 September 2015 no longer need a letter from NIE confirming the intended connection date.
No. The legislation is clear about the evidence required in order to demonstrate eligibility for each grace period. A letter from NIE confirming the intended connection date is a legislative requirement.

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5. Can letters issued prior to the legislation coming into force be submitted as evidence for the grid/radar delay grace period?

Yes, letters submitted as evidence for the grid/radar delay grace period can be written on any date, so long as it is clear that the letter relates to the same generating station as is applying for the grace period.

6. Can Ofgem E-Serve offer clarity on the effect of any legal issues flagged by NIE which may cause delay to grid works?

We cannot provide legal advice to developers, therefore if legal issues are flagged up by NIE, which may cause a delay to the grid works, the developer should seek their own independent legal advice as to the effect, if any, that those legal issues are likely to have on their ability to apply for a grace period.

7. What happens if a delay to grid works outside the control of the developer means that the connection only occurs the day before the relevant grace period closing date, leaving no time to commission prior to the end of the grace period?

The legislation does not address such a scenario. However, it is clear that the station must be commissioned by the last date of the relevant grace period. There are no further extensions available. If you believe your commissioning date will be close to the end of a grace period we would recommend making your application prior to commissioning. You can apply via the Register up to two months before your expected commissioning date. If you have concerns about commissioning close to the end of a grace period you may wish to discuss this with the DNO or radar works party.