

# Briefing

2 October 2014

## Draft Law supplementing the Law No. 220/2008 establishing the aid scheme for the generation of electricity from renewable energy sources

On 1 October 2014 a draft law ("**Draft Law**") supplementing the Law No. 220/2008 establishing the aid scheme for the generation of electricity from renewable energy sources ("**Law No. 220/2008**") and the Government Emergency Ordinance No. 88/2011 which amended and supplemented Law No. 220/2008 ("**GEO No. 88/2011**") was published on the website of the Department for Energy.

The main provisions of the Draft Law are as follows:

### 1. New definition added to Law No. 220/2008

Pursuant to the Draft Law, the definition of the term "site" is added to the list of defined terms of Law No. 220/2008. Site is defined as the premises for a group of installations, constructions and equipment necessary for the production of electricity, situated in the same location and usually having a single connection to the electricity transmission and distribution network.

### 2. Amendments proposed to GEO No. 88/2011

#### 2.1. Accreditation of power plants exceeding 125 MW

##### Current provisions

Operators developing an installation for electricity generation from renewable energy sources with a capacity exceeding 125 MW may apply for accreditation as electricity producer from renewable sources and receive green certificates only after obtaining the authorisation from the European Commission following assessment by the Commission of the respective project individually notified, pursuant to article 26 of the Law No. 220/2008.

Pursuant to GEO No. 88/2011, the electricity producers which, at the date of the entry into force of GEO No. 88/2011 (ie 19 October 2011) were exploiting installations for electricity generation from renewable energy sources with a capacity exceeding 125 MW, may benefit of temporary accreditation by ANRE and thus receive green certificates, for a period of 24 months as of accreditation date, even in the absence of the individual authorisation of the respective project by the European Commission, provided however that they prepare and submit the documentation required for the assessment of the aid scheme for the respective project by the European Commission to ANRE within maximum 3 months from the date of the temporary accreditation decision.

Same provisions apply to those undertakings developing projects for electricity generation from renewable energy sources with a capacity exceeding 125 MW which, at the date of the entry into force of GEO No. 88/2011, had a valid connection contract with the grid operator.

##### Proposed changes

Pursuant to the Draft Law, the producers and undertakings benefiting of temporary accreditation pursuant to the provisions mentioned above, which did not obtain individual authorisation decisions from the European Commission within 24 months as of the date of temporary accreditation for reasons not attributable to themselves, may apply for issuance of a new temporary accreditation in order to receive green certificates until the date when the European Commission issues the authorisation decision.



The Draft Law also provides that in case there are negative differences between the number of green certificates received by the abovementioned producers and undertakings and the number of green certificates they are entitled to pursuant to the individual decision of the European Commission, such differences will be settled based on ANRE's decision, by issuance of additional green certificates within maximum 24 months as of the date of the European Commission's individual decision. Currently GEO No. 88/2011 exclusively regulates the situation when positive differences appear between the number of green certificates received and the actual number of green certificates to which such projects would be entitled.

## 2.2. Accreditation of power plants exceeding 250 MW

The Draft Law provides that an operator developing an installation for electricity generation from renewable energy sources in sites where the installed capacity exceeds 250 MW will have to prepare and submit the necessary documentation for the detailed assessment of the aid scheme by the European Commission, with the observance of the provisions under point 20 letter (b) of the 2014 Guidelines on State aid for environmental protection and energy (2014/C200/01).

The Draft Law does not expressly amend article 26 of the Law No. 220/2008 – therefore it would seem that operators of renewable energy generation capacities exceeding 125 MW still have to file for individual authorisation from the European Commission, with the observance of the provisions under point 160 letter (b) (iii) of the 2008 Guidelines on State aid for environmental protection and energy (2008/C82/01).

It is not clear how the two provisions will reconcile.

Comments to the Draft Law may be submitted to the following e-mail address:  
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