STATUTORY INSTRUMENTS

2015 No. 981

ELECTRICITY

The Contracts for Difference (Allocation) (Amendment) Regulations 2015

Made - - - - 26th March 2015

Coming into force in accordance with regulation 1(1)

The Secretary of State has before making these Regulations—

(a) consulted the persons listed in section 24(1)(a) to (g) of the Energy Act 2013(**1**) and such other persons as the Secretary of State considered it appropriate to consult; and

(b) had regard to the matters in section 5(2) of that Act.

In accordance with section 6(8) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 6(1) and (6), 12(1) to (3), 13(1) to (3), 16 and 19 of the Energy Act 2013, makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Contracts for Difference (Allocation) (Amendment) Regulations 2015 and come into force on the day after the date on which they are made.

(2) These Regulations do not extend to Northern Ireland.

Amendment

2. These Regulations amend the Contracts for Difference (Allocation) Regulations 2014(**2**)("the Allocation Regulations 2014").

New definitions

3. In regulation 2 (interpretation) of the Allocation Regulations 2014, insert at the appropriate place—

(**1**) 2013 c. 32.
(**2**) S.I. 2014/2011.

""associated" has the same meaning as it has in paragraph 37 of Schedule 2A to the Electricity Act 1989(**3**);";

""excluded site" has the meaning given by regulation 14A(6);";

""exclusion period" has the meaning given by regulation 14A(6);";

""exemption certificate" has the meaning given by regulation 14C(9);";

""exemptions request notice" has the meaning given by regulation 14C(2);";

""a non-delivery case" has the meaning given by regulation 14A(1)(b);";

""a non-signature case" has the meaning given by regulation 14A(1)(a);";

""offer lapsed" in relation to the offer of a CFD is to be construed in accordance with regulation 11(1) of the Standard Terms Regulations 2014;";

""offer of a CFD" has the meaning given in regulation 10(1) of the Standard Terms Regulations 2014;";

""the Standard Terms Regulations 2014" means the Contracts for Difference (Standard Terms) Regulations 2014(**4**);";

""temporary site exclusion" has the meaning given by regulation 14A(2) and (3);".

Amendment of regulation 4

4.—(1) Regulation 4 (establishing allocation rounds) of the Allocation Regulations 2014 is amended as follows.

(2) In paragraph (1), for "Subject to paragraphs (2) to (4)" substitute "Subject to paragraphs (2) to (4) and (6)".

(3) After paragraph (5) insert—

"(6) Where an exemptions request notice is given, an allocation round notice which establishes a round which immediately follows the exemptions request notice must not state a commencement date which is earlier than 25 working days after the closing date stated in the exemptions request notice.".

Further excluded applications

5. After regulation 14 (excluded applications) of the Allocation Regulations 2014 insert—

"**Temporary site exclusions and exemption certificates**

14A.—(1) This regulation and regulations 14B to 14D apply where—

(a) the offer lapsed in respect of a successful application ("a non-signature case"); or

(b) a CFD was entered into and—

(i) the CFD was terminated on a date which is earlier than 13 months after the date on which the CFD notification was given in respect of the CFD; and

(ii) the reason for the termination was that the eligible generator failed to achieve the stages for delivery of the generating station which were required under the CFD ("a non-delivery case").

(2) Subject to paragraphs (4) and (5), an eligible generator may not make an application in respect of a CFD unit where—

(**3**) 1989 c. 29. Schedule 2A was inserted by section 44(4) of, and Schedule 2 to, the Energy Act 2008 (c. 32). An amendment has been made to Schedule 2A which is not relevant to this provision.

(**4**) S.I. 2014/2012.

(a) the site of the main generating structures of the eligible generating station to which the application relates is the same as, or includes any part of, an excluded site; and

(b) the application is made in an allocation round where the commencement date of the round occurs during the exclusion period which applies to the excluded site.

(3) The exclusion described in paragraph (2) is a "temporary site exclusion".

(4) An eligible generator may in an allocation round make an application to which a temporary site exclusion applies, if the eligible generator—

(a) holds an exemption certificate in respect of the application; and

(b) provides that certificate to the delivery body with the application.

(5) An eligible generator may in an allocation round make an application to which a temporary site exclusion applies where—

(a) no exemptions request notice is published in respect of the allocation round; or

(b) an exemptions request notice is published in respect of the allocation round and the date on which the temporary site exclusion is published in accordance with regulation 14D occurs—

(i) 5 or fewer working days before; or

(ii) on or after,

the closing date stated in the exemptions request notice.

(6) In this regulation—

"excluded site" means the site of the main generating structures of the eligible generating station described in the successful application in respect of which—

(a) the offer lapsed; or

(b) the CFD was entered into;

"exclusion period" means, where a site is an excluded site by reason of—

(a) a non-signature case, the period of 13 months which commences with the date on which the CFD notification was given; or

(b) a non-delivery case, the period which—

(i) commences with the date on which the CFD was terminated; and

(ii) ends on the date which is 13 months after the date on which the CFD notification was given in respect of the CFD.

Grounds for granting exemption certificates

14B.—(1) Where a request is made in accordance with regulation 14C(6), the Secretary of State may give an exemption certificate to an eligible generator ("E") who intends to make an application to which a temporary site exclusion applies.

(2) No exemption certificate may be given unless the Secretary of State is satisfied that at least one of the following grounds applies in respect of the intended application.

(3) Ground 1 is that—

(a) the area of site A is less than 51% of the area of the excluded site; and

(b) the area of the excluded site is less than 51% of the area of site A.

(4) Ground 2 is that—

(a) E holds a relevant property interest in all of site B;

(b) the interest was held by E before 14th October 2014;