Draft Regulations laid before Parliament under section 6(8) of the Energy Act 2013, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No. 0000

ELECTRICITY

The Contracts for Difference (Allocation) Regulations 2014

Made - - - - 2014

Coming into force in accordance with regulation 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), 10, 12(1) to (3), 13(2),(3) and (8) and 19 of the Energy Act 2013, makes the following Regulations:

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Contracts for Difference (Allocation) Regulations 2014 and come into force on the day after the day on which they are made.

(2) Except for Part 10, these Regulations do not extend to Northern Ireland.

Interpretation

2.—(1) In these Regulations—

"accreditation" means accreditation under any of the renewables obligation orders;

"the Act" means the Energy Act 2013;

(**1**) 2013 c. 32.

"additional qualification requirements" means the requirements set out in Chapter 4 of Part 4 applicable to particular applications;

"administrative strike price" means the strike price—

(a) used by the delivery body to value an application under regulation 29(**2**); and

(b) which is the maximum strike price which applies to a successful application;

"allocation process" means the process included in an allocation framework by which the delivery body determines which qualifying applications are successful applications and the strike price applicable to successful applications;

"allocation round notice" has the meaning given by regulation 4;

"appeals deadline date" has the meaning given by regulation 43(2)(c) and which date is listed in the allocation framework for an allocation round further to regulation 31(1)(b);

"applicable planning consents" has the meaning given by regulation 24(1);

"applicant" has the meaning given by regulation 16(2);

"application" means (except in paragraph 4(b) of Schedule 1) a request by an applicant to the delivery body to take part in an allocation process in respect of a CFD unit;

"application closing date" in relation to an allocation round has the meaning given by regulation 4(2)(b)(iii);

"applications valuations" has the meaning given by regulation 29(1) and (2);

"audit report" has the meaning given by regulation 36(2)(b);

"budget notice" means a notice required by regulation 11;

"budget revision notice" means a notice referred to in regulation 12(2)(b);

"CFD unit" means the whole or part of an eligible generating station;

"connection agreement" has the meaning given by regulation 25(6);

"delivery body" means—

(a) the national system operator; or

(b) if the national system operator's functions under Chapter 2 of Part 2 of the Act have been transferred to an alternative delivery body, that body;

"delivery year" means any of—

(a) the period from the date on which these Regulations come into force and ending on 31st March 2015; and

(b) the 12 month periods commencing on 1st April 2015 and each anniversary of that date and ending with the 12 month period ending on 31st March 2020;

"distribution system" has the meaning given by section 4(4) of the Electricity Act 1989(**3**);

"excluded application" has the meaning given by regulation 14(1);

"final strike price" means the strike price which applies to a successful application after the allocation process applicable to that application has been completed;

"framework notice" has the meaning given by regulation 7(1);

"framework revision notice" has the meaning given by regulation 8(4);

"general qualification requirements" means the requirements set out in Chapter 3 of Part 4;

"halt direction" has the meaning given by regulation 38(1)(a)(ii);

(**2**) The method of calculation, which uses the administrative strike price, is set out in the allocation framework for the allocation round, see regulation 29(3)(a).

(**3**) 1989 c. 29. The definition of "transmission system" was inserted by section 135(1) and (4) of the Energy Act 2004 (c. 20).

"maxima" has the meaning given by regulation 11(2)(b);

"minima" has the meaning given by regulation 11(2)(a);

"non-fossil fuel orders" means—

(a) the Electricity (Non-Fossil Fuel Sources)(England and Wales) Order 1994(**4**);

(b) the Electricity (Non-Fossil Fuel Sources)(Scotland) Order 1994(**5**);

(c) the Electricity (Non-Fossil Fuel Sources)(England and Wales) Order 1997(**6**);

(d) the Electricity (Non-Fossil Fuel Sources)(Scotland) Order 1997(**7**);

(e) the Electricity (Non-Fossil Fuel Sources)(England and Wales) Order 1998(**8**);

(f) the Electricity (Non-Fossil Fuel Sources)(Scotland) Order 1999(**9**);

"non-qualification determination" has the meaning given by regulation 19(2)(b);

"non-qualification review" has the meaning given by regulation 20(1);

"non-qualification review request date" has the meaning given by regulation 20(2)(a);

"offshore waters" means waters—

(a) in or adjacent to England, Wales or Scotland which are between the mean low water mark and the seaward limits of the territorial sea; or

(b) within the area of the sea designated under section 41(3) of the Marine and Coastal Access Act 2009(**10**);

"offshore wind CFD unit" means a CFD unit which generates electricity by the use of wind and which is situated (or is to be situated) wholly in offshore waters;

"overall budget" means an amount set out in a budget notice, which is the total—

(a) sum of money potentially payable by the CFD counterparty under CFDs to eligible generators in a delivery year;

(b) capacity of electricity which may be generated by generating stations subject to a CFD in a delivery year; or

(c) a combination of (a) and (b);

"pending applicant" and "pending application" have the meanings given to those terms by regulation 49(2);

"pending bid" has the meaning given by regulation 50(2)(b);

"phased offshore wind CFD unit" means an offshore wind CFD unit—

(a) which is to be established or altered by two or three phases of construction;

(b) where each phase of construction is to provide new generating capacity; and

(c) in the case of a CFD unit which is to be established, where each phase of construction is to provide a generating capacity of more than 5 megawatts;

"post-appeals indicative start date" has the meaning given by regulation 31(2);

"pot" has the meaning given by regulation 11(2)(c);

"proceed direction" has the meaning given by regulation 38(1)(b)(i);

(**4**) S.I. 1994/3259.
(**5**) S.I. 1994/3275 (S. 190).
(**6**) S.I. 1997/248.
(**7**) S.I. 1997/799 (S. 76).
(**8**) S.I. 1998/2353.
(**9**) S.I. 1999/439 (S. 24).
(**10**) 2009 c. 23. By article 2 of the Exclusive Economic Zone Order 2013 (S.I. 2013/3161), which came into force on 31st March 2014, an area of the sea outside territorial waters has been designated under this section.

"proceed notice" has the meaning given by regulation 37(1)(b)(i);

"qualification appeal" has the meaning given by regulation 43(1);

"qualifying applicant" has the meaning given by regulation 17(2) and includes a person determined by the appeals body as a qualifying applicant;

"qualifying application" has the meaning given by regulation 17(2);

"registration" means, other than in Schedule 1, registration on the central FIT register as an accredited FIT installation within the meaning of Part 3 of the Feed-in Tariffs Order 2012(**11**);

"relevant CFD unit" means the CFD unit which is the subject of an application;

"relevant works" has the meaning given by regulation 23(2) and (4);

"renewables obligation orders" means—

(a) the Renewables Obligation Order 2009(**12**); or

(b) the Renewables Obligation (Scotland) Order 2009(**13**);

"re-run notice" has the meaning given by regulation 37(1)(b)(ii);

"review notice" has the meaning given by regulation 20(1);

"round variation notice" has the meaning given by regulation 5(1)(a);

"strike price" means (except in Part 10) a price ("SP") for one megawatt hour of electricity generated by a CFD unit;

"successful application" means an application in respect of which, further to an allocation process, a CFD notification may be made or, in the case of an application in respect of a phased offshore wind CFD unit, more than one CFD notification may be made;

"termination notice" has the meaning given by regulation 5(1)(b);

"transmission system" has the meaning given by section 4(4) of the Electricity Act 1989;

"variation notice" has the meaning given by regulation 34(2);

"working day" means 9 am to 5 pm on Mondays to Fridays excluding—

(a) bank holidays within the meaning of section 1 of the Banking and Financial Dealings Act 1971(**14**), including—

(i) except in respect of Part 10, those bank holidays in part only of Great Britain;

(ii) in respect of Part 10, those bank holidays in part only of the United Kingdom;

(b) Good Friday; and

(c) when it falls on a day that would otherwise be a working day, Christmas Day.

(2) The following have the same meanings as they have in the Contracts for Difference (Definition of Eligible Generator) Regulations 2014(**15**)—

"biomass conversion station";

"complete CCS system";

"eligible generating station";

"eligible generator";

"generating station";

"hydro generating station";

(**11**) S.I. 2012/2782 as amended by S.I. 2013/1099.
(**12**) S.I. 2009/785 as amended by: S.I. 2010/829, 2010/1107, 2011/984, 2011/988, 2013/768.
(**13**) S.S.I. 2009/140 as amended by: S.S.I. 2009/276, 2010/147, 2011/225, 2013/116.
(**14**) 1971 c. 80.
(**15**) S.I. 2004/xxxx.

"landfill gas";

"photovoltaic array";

"relevant fossil fuel generating station";

"sewage gas".

PART 2

Allocation rounds and allocation frameworks

Notices

3. A notice given by the Secretary of State under this Part must be made publicly available by the Secretary of State as soon as practicable after it is given.

Establishing allocation rounds

4.—(1) Subject to paragraphs (2) to (4), the Secretary of State may by notice establish an allocation round ("an allocation round notice").

(2) An allocation round notice must—

(a) be given to the delivery body and the CFD counterparty; and

(b) state—

(i) the commencement date of the allocation round, which must not be earlier than 10 working days after the date of the notice;

(ii) the end date of the allocation round, which must be no later than 6 months after the commencement date;

(iii) subject to paragraph (3), the date by which an application for a CFD to be allocated further to that round must be made ("the application closing date"); and

(iv) which delivery year or years apply to any CFDs to be allocated further to the allocation round.

(3) The application closing date must be no earlier than 10 working days after the commencement date of the allocation round.

(4) Where the CFDs to be allocated further to an allocation round are restricted to particular types of eligible generator or eligible generating station, the allocation round notice must state the restriction.

(5) An allocation round may be for some or all of the period of another allocation round.

Varying and terminating allocation rounds

5.—(1) The Secretary of State may—

(a) by notice ("a round variation notice") vary—

(i) the commencement date of an allocation round;

(ii) the application closing date; or

(iii) the end date of an allocation round; or

(b) by notice ("a termination notice") terminate an allocation round so that no CFDs are to be allocated further to that round.

(2) A round variation notice or a termination notice must—