
DRAFT STATUTORY INSTRUMENTS

2024 No.

ELECTRICITY

**The Contracts for Difference (Sustainable Industry Rewards)
Regulations 2024**

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The Secretary of State makes these Regulations in exercise of the powers conferred by sections 6(1) and (6), 11(3), 12(1) and (3), 13(1), (2), (3) and (8), 16 and 19(1) and (2)(b) of the Energy Act 2013(a).

The Secretary of State has consulted the persons listed in section 24(1) of that Act and has had regard to the matters in section 5(2) of the Act.

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

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Contracts for Difference (Sustainable Industry Rewards) Regulations 2024, and come into force on the day which is 21 days after the day on which they are made.

(2) These Regulations extend to England and Wales and Scotland.

PART 2

Amendment of the Contracts for Difference (Allocation) Regulations 2014

Amendment of the Contracts for Difference (Allocation) Regulations 2014

2. The Contracts for Difference (Allocation) Regulations 2014(b) are amended as follows.

Amendment to regulation 2 (interpretation)

3. In regulation 2(1)—

(a) at the appropriate place insert—

““application opening date” has the meaning given by regulation 4A(2)(b)(ii);

“application window” means the period beginning with the application opening date and ending with the application closing date;

“application window notice” has the meaning given by regulation 4A(1);

“application window variation notice” has the meaning given by regulation 5A(1);

(a) 2013 c. 32. Section 6(1) was amended by section 18(2)(a) of the Energy Prices Act 2022 (c. 44) and section 19(2) was amended by section 18(5) of that Act.

(b) S.I. 2014/2011. Relevant amending instruments are S.I. 2015/981, 2016/784, 2021/758 and 2022/842.

“contract allocation framework” means the part of an allocation framework^(a) which deals with matters other than sustainable industry rewards;

“contract allocation process” means the process included in a contract allocation framework by which the delivery body determines which qualifying applications are successful applications and the strike price applicable to successful applications;

“contract budget” means an amount set out in a contract budget notice, which is the total—

- (a) sum of money potentially payable by the CFD counterparty^(b) under CFDs^(c) to eligible generators^(d) in a delivery year, excluding sustainable industry rewards;
- (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);

“contract budget notice” means a notice required by regulation 11;

“contract budget revision notice” means a notice referred to in regulation 12(2)(b);

“contract framework notice” has the meaning given by regulation 7(1);

“contract framework revision notice” has the meaning given by regulation 8(4);

“sustainable industry reward” means a sum of money which—

- (a) may be payable by the CFD counterparty to an eligible generator under a CFD allocated in the seventh, eighth or ninth allocation round;
- (b) is determined in accordance with a sustainable industry reward allocation framework; and
- (c) is payable for the purpose of supporting the matters referred to in regulation 6(2B) (development and sustainability of supply chains);

“sustainable industry reward allocation framework” means the part of an allocation framework which deals with sustainable industry rewards;

“sustainable industry reward allocation process” means the process included in a sustainable industry reward allocation framework for the determining of sustainable industry reward applications;

“sustainable industry reward applicant” means an eligible generator which makes a sustainable industry reward application;

“sustainable industry reward application” means an application made under regulation 28A(1);

“sustainable industry reward budget” means an amount set out in a sustainable industry reward budget notice, which is the sum of money potentially payable by the CFD counterparty under CFDs to eligible generators who are eligible for such payments in accordance with a sustainable industry reward statement, expressed as a sum of money payable per gigawatt of electricity generated by such generators;

“sustainable industry reward framework notice” has the meaning given by regulation 7(3);

(a) See section 13(2)(a) of the Energy Act 2013 for the meaning of “allocation framework”.

(b) See section 7(2) of the Energy Act 2013 for the meaning of “CFD counterparty”.

(c) See section 6(2) of the Energy Act 2013 for the meaning of “CFD”.

(d) See section 10(3) of the Energy Act 2013, and S.I. 2014/2010, for the meaning of “eligible generator”.

“sustainable industry reward framework revision notice” has the meaning given by regulation 8(5);

“sustainable industry reward statement” means a statement given by the Secretary of State under regulation 28C, as revised, where applicable, in accordance with regulation 28E;”;

- (b) omit the definition of “allocation process”;
- (c) in the definition of “application”, for “an allocation process” substitute “a contract allocation process”;
- (d) in the definition of “application closing date”, for “4(2)(b)(iii)” substitute “4A(2)(b)(iii)”;
- (e) omit the definition of “budget notice”;
- (f) omit the definition of “budget revision notice”;
- (g) in the definition of “final strike price”, for “allocation process” substitute “contract allocation process”;
- (h) omit the definition of “framework notice”;
- (i) omit the definition of “framework revision notice”;
- (j) omit the definition of “overall budget”;
- (k) in the definition of “successful application”, for “an allocation process” substitute “a contract allocation process”;
- (l) in the definition of “target commissioning window”, for “allocation framework” substitute “contract allocation framework”.

Amendment to regulation 4 (establishing allocation rounds)

4. In regulation 4—

- (a) in paragraph (1), for “Subject to paragraphs (2) to (4) and (6), the” substitute “The”;
- (b) for paragraph (2) substitute—

“(2) An allocation round notice must be given to the delivery body and the CFD counterparty.”;

- (c) omit paragraphs (3), (4) and (6).

Insertion of regulation 4A (establishing application windows)

5. After regulation 4 insert—

“Establishing application windows

4A.—(1) Subject to paragraphs (2) to (5), where the Secretary of State establishes an allocation round, the Secretary of State must by notice (“an application window notice”) establish an application window.

(2) An application window notice must—

- (a) be given to the delivery body and the CFD counterparty; and
- (b) state—

- (i) the allocation round to which the notice applies;
- (ii) the first date on which an application for a CFD to be allocated further to that round may be made (“the application opening date”);

- (iii) the date by which an application for a CFD to be allocated further to that round must be made (“the application closing date”), which must not be earlier than 10 working days after the application opening date; and
 - (iv) which delivery year or years apply to any CFDs to be allocated further to the allocation round to which the notice applies.
- (3) The application opening date must not be earlier than—
- (a) the date which is 10 working days after the date of the application window notice; or
 - (b) where the allocation round to which the application window notice applies is one to which a sustainable industry reward allocation framework applies, the date which is four months after the date on which the sustainable industry reward allocation process commences, as specified in the sustainable industry reward framework notice or in a sustainable industry reward framework revision notice.
- (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 application window notice must state the restriction.
- (5) Where an exemptions request notice is given, an application window notice which immediately follows the exemptions request notice must not state an application opening date which is earlier than 25 working days after the closing date stated in the exemptions request notice.”.

Amendment to regulation 5 (varying and terminating allocation rounds)

6. In regulation 5—

- (a) for paragraph (1)(a) substitute—
 - “(a) by notice (“a round variation notice”) vary the commencement date of an allocation round, where the commencement date of that allocation round has not yet passed; or”;
- (b) in paragraph (4), for “an allocation process” substitute “a contract allocation process”;
- (c) omit paragraph (6);
- (d) in paragraph (6A), omit “or the application closing date”.

Insertion of regulation 5A (varying application windows)

7. After regulation 5 insert—

“Varying application windows

5A.—(1) Subject to paragraphs (3) to (5), the Secretary of State may by notice (“an application window variation notice”) vary the application window by varying—

- (a) the application opening date, where that date has not yet passed; or
 - (b) the application closing date, where that date has not yet passed.
- (2) An application window variation notice must—
- (a) be given to the delivery body and the CFD counterparty;
 - (b) state the date on which it has effect;
 - (c) identify the allocation round to which the notice applies; and
 - (d) state the reasons for the variation effected by the notice.

(3) No variation of the application opening date or the application closing date may be made where the application closing date would be earlier than 10 working days after the application opening date.

(4) No variation of the application opening date or the application closing date may be made where the varied date would be earlier than 5 working days after the date of the application window variation notice.

(5) Where the allocation round to which the application window variation notice applies is one to which a sustainable industry reward allocation framework applies, no variation of the application opening date may be made where the varied date would be earlier than four months after the date on which the sustainable industry reward allocation process commences, as specified in the sustainable industry reward framework notice or in a sustainable industry reward framework revision notice.

(6) Where the delivery body receives an application window variation notice, it must as soon as practicable after receipt send a copy of the notice to each applicant who has made an application (which has not been withdrawn) in the round to which the notice applies.”.

Amendment to regulation 6 (allocation frameworks)

8. In regulation 6—

(a) for paragraph (1) substitute—

“(1) The Secretary of State—

- (a) must ensure that one contract allocation framework applies to each allocation round;
- (b) may apply a contract allocation framework to more than one allocation round;
- (c) may, in relation to the seventh, eighth and ninth allocation rounds, apply a sustainable industry reward allocation framework to the allocation round in addition to the contract allocation framework; and
- (d) may, if the Secretary of State applies a sustainable industry reward allocation framework to the seventh, eighth or ninth allocation round, apply that framework to more than one of those allocation rounds.”;

(b) in paragraph (2)—

- (i) for “An allocation framework” substitute “A contract allocation framework”;
- (ii) in both places where it occurs, for “allocation process” substitute “contract allocation process”;

(c) after paragraph (2) insert—

“(2A) A sustainable industry reward allocation framework must, in respect of the allocation round or rounds to which it applies, set out—

- (a) the sustainable industry reward allocation process;
- (b) how the Secretary of State is to determine the contribution which the establishment or alteration of an offshore wind CFD unit is likely to make to the development and sustainability of supply chains, which must include an assessment of the matters referred to in paragraph (2B);
- (c) a process for review before a final determination is made of the likely contribution referred to in sub-paragraph (b);

- (d) the minimum standards of the likely contribution referred to in sub-paragraph (b) which must be met before the Secretary of State may give a sustainable industry reward statement;
- (e) the method which the Secretary of State must apply to determine whether a sustainable industry reward may be payable and the amount of that potential reward; and
- (f) the method by which the Secretary of State must score and rank sustainable industry reward applications.

(2B) The matters referred to in this paragraph are—

- (a) increasing productivity, competitiveness and capacity in supply chains;
- (b) encouraging innovation in supply chains;
- (c) developing a diverse and skilled workforce and increasing employment opportunities;
- (d) increasing investment in and finding technical solutions to improving infrastructure that is relevant to the generation, storage, demand or use of electricity;
- (e) increasing the sustainability of supply chains, in particular—
 - (i) increasing the long-term economic sustainability of supply chains;
 - (ii) minimising the negative environmental impacts of supply chains; and
 - (iii) delivering benefits to the communities in which supply chains operate; and
- (f) increasing the investment in deprived areas which results from supply chains.”;

(d) in paragraph (3), for “allocation process” substitute “contract allocation process”.

Amendment to regulation 7 (framework notices)

9. In regulation 7—

- (a) in paragraph (1)—
 - (i) for “framework notice” substitute “contract framework notice”;
 - (ii) for “allocation framework” substitute “contract allocation framework”;
- (b) in the opening words of paragraph (2), for “framework notice” substitute “contract framework notice”;
- (c) in paragraph (2)(b), for “commencement date of the allocation round” substitute “application opening date”;
- (d) after paragraph (2) insert—

“(3) Where the Secretary of State applies a sustainable reward allocation framework to an allocation round, the Secretary of State must by notice (a “sustainable industry reward framework notice”) identify the sustainable industry reward allocation framework which applies to that allocation round.

(4) A sustainable industry reward framework notice must—

- (a) be given to the delivery body and the CFD counterparty;
- (b) specify the date on which the sustainable industry reward allocation process will commence, which must not be earlier than three months after the date of the notice; and
- (c) must be given as soon as practicable after the date of the allocation round notice establishing the allocation round to which the sustainable industry reward framework notice applies.”.

Amendment to regulation 8 (framework revisions)

10. In regulation 8—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (a), for “an allocation framework identified in a framework notice” substitute “a contract allocation framework identified in a contract framework notice”;
 - (ii) in sub-paragraph (b), for “an allocation framework” substitute “a contract allocation framework”;
- (b) in paragraph (2), for “commencement date of the allocation round” substitute “application opening date”;
- (c) after paragraph (2) insert—

“(2A) Subject to paragraph (2B), the Secretary of State may amend or add to the provisions of a sustainable industry reward allocation framework identified in a sustainable industry reward allocation framework notice.

(2B) No amendment or addition under paragraph (2A) may be made later than 30 working days before the date on which the sustainable industry reward allocation process will commence, as specified in the sustainable industry reward framework notice or in a sustainable industry reward framework revision notice.

(2C) Subject to paragraph (5)(d), the Secretary of State may vary the date on which the sustainable industry reward allocation process will commence, as specified in the sustainable industry reward framework notice, or in a sustainable industry reward framework revision notice.”;

- (d) in paragraph (3)—
 - (i) in the opening words, for “an allocation framework” substitute “a contract allocation framework”;
 - (ii) in sub-paragraphs (a) and (b), for “allocation framework” substitute “contract allocation framework”;
- (e) in paragraph (4)—
 - (i) for the opening words substitute—

“Where the Secretary of State amends or adds to the provisions of a contract allocation framework, or removes a contract allocation framework, the Secretary of State must give a notice (“a contract framework revision notice”) to the delivery body and the CFD counterparty which states—”;

- (ii) in sub-paragraph (a), for “an” substitute “the”;
 - (iii) in sub-paragraph (b), for “an allocation framework” substitute “a contract allocation framework”;
 - (iv) in sub-paragraph (c), for “allocation framework” substitute “contract allocation framework”;
- (f) at the end insert—

“(5) Where the Secretary of State amends or adds to the provisions of a sustainable industry reward allocation framework, or varies the date specified in the sustainable industry reward framework notice as the date on which the sustainable industry reward allocation process will commence, the Secretary of State must give a notice (“a sustainable industry reward framework revision notice”) to the delivery body and the CFD counterparty which states, where applicable—

- (a) the date on which an amendment or addition to the sustainable industry reward allocation framework has effect, which must not be earlier than the date of the notice;
- (b) how the sustainable industry reward allocation framework has been amended or added to;
- (c) where the sustainable industry reward allocation framework is to apply to more than one allocation round, the allocation round or rounds affected by the amendment or addition; and
- (d) the varied date on which the sustainable industry reward allocation process will commence, which must not be earlier than—
 - (i) the date which is 10 working days after the date of the notice; or
 - (ii) the date which is three months after the date of the sustainable industry reward framework notice.”.

Amendment to regulation 9 (publication of allocation frameworks)

11. In regulation 9—

- (a) in paragraph (1), for “allocation framework” substitute “contract allocation framework and sustainable industry reward allocation framework”;
- (b) in the opening words of paragraph (2), after “paragraph (1)” insert “in relation to a contract allocation framework”;
- (c) in paragraph (2)(a)—
 - (i) for “an allocation framework” substitute “a contract allocation framework”;
 - (ii) for “framework notice” substitute “contract framework notice”;
- (d) in paragraph 2(b)—
 - (i) for “an allocation framework” substitute “a contract allocation framework”;
 - (ii) for “framework revision notice” substitute “contract framework revision notice”;
- (e) at the end insert—

“(3) The Secretary of State must comply with paragraph (1) in relation to a sustainable industry reward allocation framework—

- (a) except where an addition or amendment is made to the provisions of a sustainable industry reward allocation framework, by no later than the date of the sustainable industry reward framework notice in which the framework is identified; or
- (b) where an addition or amendment is made to the provisions of a sustainable industry reward allocation framework, by no later than the date of the sustainable industry reward framework revision notice in which the framework is identified.”.

Amendment to regulation 11 (budget notices)

12. In regulation 11—

- (a) for the heading substitute “Contract budget notices”;
- (b) in each place where it occurs, for “budget notice” substitute “contract budget notice”;
- (c) in each place where it occurs, for “overall budget” substitute “contract budget”;
- (d) in paragraph (4A), for “allocation framework” substitute “contract allocation framework”;
- (e) in paragraph (5)(c), for “commencement date of the allocation round” substitute “application opening date”.

Amendment to regulation 12 (budget revision)

13. In regulation 12—

- (a) for the heading substitute “Contract budget revision”;
- (b) in each place where it occurs, for “budget revision” substitute “contract budget revision”;
- (c) in each place where it occurs, for “commencement date of the allocation round” substitute “application opening date”;
- (d) in paragraph (1), for “budget notice” substitute “contract budget notice”;
- (e) in paragraph (5), in each place where it occurs, for “overall budget” substitute “contract budget”.

Amendment to regulation 13 (budget revision notices)

14. In regulation 13—

- (a) for the heading substitute “Contract budget revision notices”;
- (b) in each place where it occurs, for “budget revision” substitute “contract budget revision”.

Insertion of regulation 13A (sustainable industry reward budgets)

15. After regulation 13 insert—

“Sustainable industry reward budgets

13A.—(1) Where the Secretary of State gives a sustainable industry reward framework notice in relation to an allocation round, the Secretary of State must by notice (“a sustainable industry reward budget notice”) specify the sustainable industry reward budget which is available for that allocation round.

(2) The Secretary of State must give a sustainable industry reward budget notice in its indicative form at the same time as the Secretary of State gives the sustainable industry reward framework notice.

(3) The Secretary of State must give a sustainable industry reward budget notice in its draft form no less than 3 months before the date on which the sustainable industry reward allocation process will commence, as specified in the sustainable industry reward framework notice or in a sustainable industry reward framework revision notice.

(4) The Secretary of State may revise a sustainable industry reward budget notice given in its indicative form under paragraph (2) before it is given in its draft form under paragraph (3).

(5) The Secretary of State must give a sustainable industry reward budget notice in its final form within the period of three weeks beginning with the day after the last day on which an eligible generator may make a sustainable industry reward application, as specified in the sustainable industry reward allocation framework.

(6) The Secretary of State may revise a sustainable industry reward budget notice given in its draft form under paragraph (3) before it is given in its final form under paragraph (5).

(7) A sustainable industry reward budget notice, whether in its indicative, draft or final form, must—

- (a) be given to the delivery body and the CFD counterparty; and
- (b) identify the allocation round to which the sustainable industry reward budget notice applies.”.

Amendment to regulation 14 (excluded applications)

16. In regulation 14(14), for “allocation framework” substitute “contract allocation framework”.

Amendment to regulation 14A (temporary site exclusions and exemption certificates)

17. After regulation 14A(2) insert—

“(2A) The prohibition in paragraph (2) does not prevent an eligible generator from making a sustainable industry reward application in the next two allocation rounds referred to in that paragraph.”.

Amendment to regulation 14C (requests for exemption certificates)

18. In regulation 14C—

- (a) in paragraph (1), for “an allocation round (“a prospective round”)” substitute “an application window (“a prospective application window”)”;
- (b) in paragraph (2)—
 - (i) for “(“the prospective commencement date”)” substitute “(“the prospective application opening date”)”;
 - (ii) for “the commencement date of a prospective round” substitute “the application opening date of a prospective application window”;
- (c) in each other place where it occurs, for “prospective round” substitute “prospective application window”;
- (d) in paragraphs (4) and (5)(a), for “prospective commencement date” substitute “prospective application opening date”;
- (e) in paragraph (5)(c), for “prospective allocation round” substitute “prospective application window”.

Amendment to regulation 15 (commencement of allocation rounds)

19. For regulation 15 substitute—

“Commencement of application windows

15. Chapters 2 to 4 apply where an application window has commenced further to an application window notice or an application window variation notice.”.

Amendment to regulation 16 (applications)

20. In regulation 16(4), for “allocation framework” substitute “contract allocation framework”.

Amendment to regulation 17 (determinations: qualifying applicants)

21. In regulation 17—

- (a) in paragraph (1), for “allocation process” substitute “contract allocation process”;
- (b) in paragraph (3)(a), for “an allocation process” substitute “a contract allocation process”.

Amendment to regulation 19 (notices of determinations)

22. In regulation 19(3), for “allocation framework” substitute “contract allocation framework”.

Amendment to regulation 20 (reviews of non-qualification determinations)

23. In regulation 20—

(a) after paragraph (1) insert—

“(1A) An applicant may not request a non-qualification review of a determination that an application is not a qualifying application by virtue of the applicant not being able to provide a sustainable industry reward statement, as required by regulation 27B(2).”;

(b) in paragraph (6), for “allocation framework” substitute “contract allocation framework”.

Amendment to regulation 23 (requirement for applicable planning consents)

24. In regulation 23(7), for “allocation framework” substitute “contract allocation framework”.

Amendment to regulation 25 (connection agreements)

25. In regulation 25(5), for “allocation framework” substitute “contract allocation framework”.

Amendment to regulation 26 (statements in relation to supply chains)

26. In regulation 26—

(a) in paragraph (1), for “two” substitute “three”;

(b) after paragraph (3) insert—

“(3A) The third condition is that the application is not one to which regulation 27B (statements in relation to sustainable industry rewards) applies.”.

Insertion of regulation 27B (statements in relation to sustainable industry rewards)

27. After regulation 27A insert—

“Statements in relation to sustainable industry rewards

27B.—(1) This regulation applies where—

(a) the relevant CFD unit is an offshore wind CFD unit;

(b) the allocation round is the seventh, eighth or ninth allocation round; and

(c) the Secretary of State has given a sustainable industry reward framework notice in relation to that round.

(2) Where this regulation applies, the applicant must provide a sustainable industry reward statement in relation to the relevant CFD unit.”.

Amendment to regulation 28 (supplemental requirements)

28. In regulation 28(1), for “An allocation framework” substitute “A contract allocation framework”.

Insertion of Chapter 5 of Part 4 (sustainable industry reward statements: supplemental)

29. After regulation 28 insert—

“Chapter 5

Sustainable industry reward statements: supplemental

Sustainable industry reward application

28A.—(1) An eligible generator which is required to provide a sustainable industry reward statement in accordance with regulation 27B may make a sustainable industry reward application to the Secretary of State in relation to an offshore wind CFD unit identified in the sustainable industry reward application.

(2) The Secretary of State must not provide a sustainable industry reward statement in response to a sustainable industry reward application unless the Secretary of State is satisfied that—

- (a) the sustainable industry reward applicant is an eligible generator in respect of the offshore wind CFD unit; and
- (b) the establishment or alteration of the offshore wind CFD unit meets the minimum standards of likely contribution to the development and sustainability of supply chains, as set out in the sustainable industry reward allocation framework.

Particulars of sustainable industry reward application

28B.—(1) A sustainable industry reward application must—

- (a) identify the offshore wind CFD unit;
- (b) describe how the offshore wind CFD unit is to be established or altered;
- (c) set out how the sustainable industry reward applicant considers that the establishment or alteration of the offshore wind CFD unit is likely to make a material contribution to the development and sustainability of supply chains, as set out in the sustainable industry reward allocation framework.

(2) A sustainable industry reward applicant must—

- (a) identify any information included in, or in support of, a sustainable industry reward application or otherwise provided to the Secretary of State in relation to the offshore wind CFD unit to support the development and sustainability of supply chains which the sustainable industry reward applicant considers is commercially confidential; and
- (b) where such information is identified, provide reasons why the sustainable industry reward applicant considers that the disclosure of that information (other than to the Secretary of State for the purposes of determining the sustainable industry reward application) may damage the commercial interests of the sustainable industry reward applicant or another person.

Providing sustainable industry reward statement or refusing application

28C. The Secretary of State must, as soon as practicable after a sustainable industry reward application is received by the Secretary of State, give a notice to the sustainable industry reward applicant which includes—

- (a) a sustainable industry reward statement which—
 - (i) confirms that the sustainable industry reward application meets the minimum standards of likely contribution to the development and sustainability of supply chains, as set out in the sustainable industry reward allocation framework;

- (ii) states the allocation round for which the sustainable industry reward statement has effect; and
 - (iii) sets out the sustainable industry reward to which the sustainable industry reward applicant may be entitled and the obligations which must be fulfilled by that applicant in order to receive that reward; or
- (b) a refusal of the sustainable industry reward application and the reasons for that refusal.

Confidentiality: sustainable industry reward applications

28D.—(1) The Secretary of State must not disclose any information included in, or in support of, a sustainable industry reward application or otherwise provided to the Secretary of State in relation to a generating station to support the development and sustainability of supply chains where that disclosure may, in the opinion of the Secretary of State, damage the commercial interests of any other person except—

- (a) with the consent of that person;
- (b) as required by or under an enactment or an order of the court; or
- (c) to a permitted person for a permitted purpose, and the Secretary of State is satisfied that arrangements have been made with that person to prevent any further disclosure of that information by that person.

(2) In paragraph (1)—

“permitted person” means —

- (a) a public authority to which the Human Rights Act 1998(a) applies; or
- (b) a person providing services to the Secretary of State in relation to a permitted purpose or any officer, employee or agent of that person;

“permitted purpose” means—

- (a) to enable the Secretary of State to determine whether or not to provide a sustainable industry reward statement; or
- (b) to support the development and sustainability of supply chains.

Revision or withdrawal of sustainable industry reward statement

28E.—(1) Paragraph (2) applies where the Secretary of State is satisfied that—

- (a) a sustainable industry reward statement contains an error;
- (b) the information included in, or in support of, a sustainable industry reward application was materially incorrect; or
- (c) a material change in circumstances relevant to the matters specified in the sustainable industry reward statement has occurred after that statement was given.

(2) Where this paragraph applies, the Secretary of State—

- (a) may, subject to paragraph (3), revise the sustainable industry reward statement and, as soon as practicable after doing so, must give a notice to the sustainable industry reward applicant which includes the matters mentioned in regulation 28C(a); or
- (b) may withdraw a sustainable industry reward statement and, as soon as practicable after deciding to do so, must give a notice of the withdrawal to the sustainable

(a) 1998 c. 42.

industry reward applicant and the delivery body, together with the reasons for the withdrawal.

(3) Where the Secretary of State revises a sustainable industry reward statement because the Secretary of State is satisfied as specified in paragraph (1)(c), the Secretary of State—

- (a) must not increase the amount of the sustainable industry reward to which the sustainable industry reward applicant may be entitled;
- (b) must not change in a material way the obligations which must be fulfilled by the sustainable industry reward applicant in order to receive a sustainable industry reward; and
- (c) must take into account the competitive nature of the sustainable industry reward allocation process.”.

Amendment to heading of Part 5 (Allocation processes)

30. For the heading of Part 5 substitute “Contract allocation processes”.

Amendment to regulation 29 (valuation of applications)

31. In regulation 29, in each place where it occurs, for “allocation framework” substitute “contract allocation framework”.

Amendment to heading of Chapter 2 of Part 5 (requirements applicable to allocation frameworks)

32. In the heading of Chapter 2 of Part 5, for “allocation frameworks” substitute “contract allocation frameworks”.

Amendment to regulation 30 (requirements applicable to allocation frameworks)

33. In regulation 30—

- (a) in the heading, for “allocation frameworks” substitute “contract allocation frameworks”;
- (b) in each place where it occurs, for “the allocation process” substitute “the contract allocation process”;
- (c) in paragraph (1), for “An allocation framework” substitute “A contract allocation framework”;
- (d) in paragraph (2)(a), for “overall budget” substitute “contract budget”;
- (e) in paragraph (2)(b), for “an allocation process” substitute “a contract allocation process”.

Amendment to heading of Chapter 3 of Part 5 (commencement and completion of an allocation process)

34. In the heading of Chapter 3 of Part 5, for “an allocation process” substitute “a contract allocation process”.

Amendment to regulation 31 (non-qualification review and appeal deadline dates)

35. In regulation 31—

- (a) in paragraph (1), for “allocation framework” substitute “contract allocation framework”;
- (b) in paragraph (2), for “allocation process” substitute “contract allocation process”.

Amendment to regulation 33 (commencement of the allocation process)

36. In regulation 33, in each place where it occurs (including the heading), for “allocation process” substitute “contract allocation process”.

Amendment to regulation 34 (delay to the commencement of allocation processes)

37. In regulation 34—

- (a) in the heading, for “allocation processes” substitute “contract allocation processes”;
- (b) in paragraph (1), for “an allocation process” substitute “a contract allocation process”;
- (c) in paragraph (6), for “allocation process” substitute “contract allocation process”.

Amendment to regulation 35 (completion of the allocation process)

38. In regulation 35—

- (a) in the heading, for “allocation process” substitute “contract allocation process”;
- (b) in paragraph (1), for “allocation process” substitute “contract allocation process”.

Amendment to regulation 36 (auditing)

39. In regulation 36—

- (a) in both places where it occurs, for “the allocation process” substitute “the contract allocation process”;
- (b) in paragraph (3), for “an allocation process” substitute “a contract allocation process”;
- (c) in paragraph (6), for “allocation framework” substitute “contract allocation framework”.

Amendment to regulation 37 (provision of audit report to the Secretary of State)

40. In regulation 37(1)(b)(ii), for “allocation process” substitute “contract allocation process”.

Amendment to regulation 38 (proceeding, re-running an allocation process or terminating an allocation round)

41. In regulation 38—

- (a) in the heading, for “an allocation process” substitute “a contract allocation process”;
- (b) in paragraph (1)(a)(i), for “allocation process” substitute “contract allocation process”.

Amendment to regulation 39 (re-running an allocation process)

42. In regulation 39—

- (a) in the heading, for “an allocation process” substitute “a contract allocation process”;
- (b) in paragraphs (2)(a) and (3), for “allocation process” substitute “contract allocation process”;
- (c) in paragraph (3), for “allocation framework” substitute “contract allocation framework”.

Amendment to heading of Chapter 5 of Part 5 (delay and re-running the allocation process)

43. In the heading of Chapter 5 of Part 5, for “allocation process” substitute “contract allocation process”.

Amendment to regulation 40 (delay after completion of allocation processes)

44. In regulation 40—

- (a) in the heading, for “allocation processes” substitute “contract allocation processes”;
- (b) in each place where it occurs, for “allocation process” substitute “contract allocation process”;
- (c) in paragraph (4), for “allocation framework” substitute “contract allocation framework”.

Amendment to regulation 42 (timing and content of CFD notifications and notices)

45. In regulation 42(3)(b), for “allocation framework” substitute “contract allocation framework”.

Amendment to regulation 49 (application of Part 8)

46. In regulation 49(1)(b), for “allocation process” substitute “contract allocation process”.

Amendment to regulation 50 (strike price bids)

47. In regulation 50—

- (a) in paragraph (1), for “allocation framework” substitute “contract allocation framework”;
- (b) in both places where it occurs, for “allocation process” substitute “contract allocation process”.

Amendment to regulation 51 (successful applications determined by the Authority)

48. In regulation 51—

- (a) in each place where it occurs, for “allocation process” substitute “contract allocation process”;
- (b) in each place where it occurs, for “allocation framework” substitute “contract allocation framework”;
- (c) in paragraph (9), for “overall budget” substitute “contract budget”.

Amendment to regulation 54 (allocation reports)

49. In regulation 54—

- (a) in paragraph (2)(d)(ii), for “allocation framework” substitute “contract allocation framework”;
- (b) in paragraph (3), for “allocation process” substitute “contract allocation process”.

Amendment to regulation 55 (enforcement)

50. In regulation 55, for “an allocation framework” substitute “a contract allocation framework”.

Amendment to Schedule 1 (information in support of applications)

51. In Schedule 1—

- (a) in paragraph 3(d), for “allocation framework” substitute “contract allocation framework”;
- (b) in paragraph 5, for “allocation framework” substitute “contract allocation framework”.

PART 3

Amendment of the Electricity Market Reform (General) Regulations 2014

Amendment of the Electricity Market Reform (General) Regulations 2014

52. The Electricity Market Reform (General) Regulations 2014(a) are amended as follows.

Amendment to regulation 2 (interpretation)

53. In regulation 2—

- (a) in the definition of “generator party applicant”, for “has the meaning given in regulation 12A(1)” substitute “means a generator party identified in regulation 12A(1) or 12D(1)”;
- (b) in the definitions of “supply chain implementation statement” and “supply chain statement”, after “development” insert “and sustainability”;
- (c) after the definition of “sustainability obligations”, insert—

““sustainable industry reward implementation application” means an application under regulation 12D(1) for a sustainable industry reward implementation statement;

“sustainable industry reward implementation statement” means a statement provided by the Secretary of State under regulation 12F(1)(a) or (3)(a);

“sustainable industry reward statement” has the meaning given in regulation 2(1) of the Contracts for Difference (Allocation) Regulations 2014;”.

Amendment to heading of Part 3 (Supply chain statements and documents)

54. In the heading of Part 3 omit “and documents”.

Amendment to regulation 9 (application for supply chain statements)

55. In regulation 9—

- (a) in paragraph (3)(b), after “development” insert “and sustainability”;
- (b) at the end of paragraph (4)(c), omit “and”;
- (c) at the end of paragraph (4), insert—

“; and

(e) increasing the sustainability of supply chains, in particular—

- (i) increasing the long-term economic sustainability of supply chains;
- (ii) minimising the negative environmental impacts of supply chains; and
- (iii) delivering benefits to the communities in which supply chains operate.”.

Amendment to regulation 10 (particulars of supply chain applications)

56. In regulation 10, in paragraphs (1)(c)(i) and (2)(a), after “development” insert “and sustainability”.

(a) S.I. 2014/2013. Relevant amendments were made by S.I. 2021/758.

Amendment to regulation 12A (application for supply chain implementation statements)

57. In regulation 12A(2)(c), after “development” insert “and sustainability”.

Amendment to regulation 12B (particulars of supply chain implementation applications)

58. In regulation 12B, in paragraphs (1)(d)(i) and (2)(a), after “development” insert “and sustainability”.

Insertion of Part 3A (sustainable industry reward implementation statements)

59. After regulation 12C insert—

“PART 3A

Sustainable industry reward implementation statements

Application for sustainable industry reward implementation statements

12D.—(1) Where the Secretary of State has provided, and not withdrawn, a sustainable industry reward statement in respect of a generating station that is the subject of a CFD, the generator party (the “generator party applicant”) may apply for a sustainable industry reward implementation statement by submitting a sustainable industry reward implementation application to the Secretary of State.

(2) The Secretary of State must not provide a sustainable industry reward implementation statement unless the Secretary of State is satisfied that—

- (a) the generator party applicant is the generator party in respect of the generating station; and
- (b) the generator party applicant has, fully or partially, fulfilled the obligations set out in the sustainable industry reward statement.

Particulars of sustainable industry reward implementation applications

12E.—(1) A sustainable industry reward implementation application must—

- (a) identify the generating station;
- (b) demonstrate that the generator party applicant has, fully or partially, fulfilled the obligations in the sustainable industry reward statement;
- (c) describe how the generating station is being established or altered;
- (d) include the information necessary in support of the matters in sub-paragraphs (a) to (c).

(2) A generator party applicant must—

- (a) identify any information included in, or in support of, a sustainable industry reward implementation application or otherwise provided to the Secretary of State in relation to the generating station to support the development and sustainability of supply chains which the generator party applicant considers is commercially confidential; and
- (b) where such information is identified, provide reasons why the generator party applicant considers that disclosure of that information (other than to the Secretary of State for the purposes of deciding whether to provide or refuse a sustainable

industry reward implementation statement) may damage the commercial interests of the generator party applicant or another person.

(3) A generator party applicant must provide to the Secretary of State such additional information as the Secretary of State may require for the purpose of considering a sustainable industry reward implementation application.

Providing sustainable industry reward implementation statements

12F.—(1) The Secretary of State must as soon as practicable after a sustainable industry reward implementation application is received by the Secretary of State give a notice to the generator party applicant which includes—

- (a) a sustainable industry reward implementation statement which states the extent to which the generator party applicant has fulfilled the obligations set out in the sustainable industry reward statement; or
- (b) a refusal to provide a sustainable industry reward implementation statement which states the extent to which the generator party applicant has failed to meet the minimum standards of contribution to the development and sustainability of supply chains, as set out in the sustainable industry reward allocation framework (within the meaning of regulation 2(1) of the Contracts for Difference (Allocation) Regulations 2014).

(2) Paragraph (3) applies where the Secretary of State is satisfied that—

- (a) a sustainable industry reward implementation statement contains an error; or
- (b) the information provided by a generator party applicant in, or in support of, a sustainable industry reward implementation application was materially incorrect.

(3) Where this paragraph applies, the Secretary of State—

- (a) may revise the sustainable industry reward implementation statement and, as soon as practicable after doing so, must give a notice to the generator party which includes the matters mentioned in paragraph (1)(a); or
- (b) may withdraw a sustainable industry reward implementation statement and, as soon as practicable after deciding to do so, must give a notice to the generator party which includes the matters mentioned in paragraph (1)(b).

PART 3B

Confidentiality (Parts 3 and 3A) and documents”.

Amendment to regulation 13 (confidentiality)

60. In regulation 13—

- (a) in paragraph (1)—
 - (i) after “supply chain implementation statement” insert “or a sustainable industry reward implementation statement”;
 - (ii) after “development” insert “and sustainability”;
 - (iii) at the end of sub-paragraph (b)(i) insert “or”;
 - (iv) omit sub-paragraph (b)(iii);
- (b) in paragraph (2)—

- (i) for “or a supply chain implementation statement” substitute “, a supply chain implementation statement or a sustainable industry reward implementation statement”;
- (ii) after “development” insert “and sustainability”.

Amendment to regulation 17 (investment contracts)

- 61.** In regulation 17(2), for “Part 3” substitute “Parts 3 and 3A”.

PART 4

Amendment of the Contracts for Difference (Definition of Eligible Generator) Regulations 2014

Amendment of the Contracts for Difference (Definition of Eligible Generator) Regulations 2014

- 62.** The Contracts for Difference (Definition of Eligible Generator) Regulations 2014(a) are amended as follows.

Amendment to regulation 3 (definition of eligible generator)

- 63.** In regulation 3(4B)(g), for “Part 3” substitute “Parts 3 to 3B”.

PART 5

Amendment of the Contracts for Difference (Standard Terms) Regulations 2014

Amendment of the Contracts for Difference (Standard Terms) Regulations 2014

- 64.** The Contracts for Difference (Standard Terms) Regulations 2014(b) are amended as follows.

Amendment to regulation 2 (interpretation)

- 65.** In regulation 2—

- (a) omit the definition of “allocation round notice”;
- (b) after the definition of “applicant” insert—

““application window notice” has the meaning given in regulation 5(1);”.

Amendment to regulation 3 (provision to be included in standard terms)

- 66.** In regulation 3(1), after sub-paragraph (j) insert—

“(ja) which circumstances will allow for a payment under a CFD to be adjusted by reference to the generator’s fulfilment, or non-fulfilment, of the obligations set out in a sustainable industry reward statement (within the meaning of regulation 2(1) of the Contracts for Difference (Allocation) Regulations 2014);”.

(a) S.I. 2014/2010, as amended by S.I. 2016/784.

(b) S.I. 2014/2012. Relevant amending instruments are S.I. 2015/1425 and 2017/1112.

Amendment to regulation 5 (application to modify the standard terms)

67. In regulation 5—

- (a) in paragraph (1), for “an allocation round (“an allocation round notice”)” substitute “an application window (“an application window notice”);
- (b) in paragraph (2), for “allocation round notice” substitute “application window notice”.

Amendment to regulation 6 (modification of the standard terms)

68. In regulation 6(2), for “allocation round notice” substitute “application window notice”.

Amendment to regulation 7 (minor modification)

69. In regulation 7(6) for “allocation round notice” substitute “application window notice”.

Amendment to regulation 9 (preparation of a CFD)

70. In regulation 9—

- (a) in paragraph (1), for “allocation round notice” substitute “application window notice”;
- (b) in paragraph (2B), for “commencement date stated in the allocation round notice” substitute “date specified in an application window notice as the first date on which an application for a CFD may be made”.

Name
Minister of State
Department for Energy Security and Net Zero

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Contracts for Difference (Allocation) Regulations 2014 (S.I. 2014/2011) (“Allocation Regulations”), the Electricity Market Reform (General) Regulations 2014 (S.I. 2014/2013) (“EMR Regulations”), the Contracts for Difference (Definition of Eligible Generator) Regulations 2014 (S.I. 2014/2010) (“Eligible Generator Regulations”) and the Contracts for Difference (Standard Terms) Regulations 2014 (S.I. 2014/2012) (“Standard Terms Regulations”). Those Regulations form part of the legislative framework underpinning the Contracts for Difference (“CFD”) scheme under section 6 of the Energy Act 2013 (c. 32). The CFD scheme is designed to encourage low carbon electricity generation by awarding subsidies accessed through a private law contract, which is secured in a competitive allocation round.

Part 2 amends the Allocation Regulations to introduce a new requirement for the allocation of CFDs which relate to offshore wind CFD units (that is, electricity generating stations which use wind and which are located in offshore waters, whether they are fixed or floating). The new requirement will apply to the seventh, eighth and ninth CFD allocation rounds where the Secretary of State issues the allocation framework for the round in two stages, with the first stage providing for sustainable industry rewards. An electricity generator applying to establish or alter an offshore wind CFD unit will have to provide a sustainable industry reward (“SIR”) statement with their CFD application (regulation 27 which inserts new regulation 27B). For offshore wind CFD units above a certain generating capacity and all floating offshore wind CFD units, this will be in place of the existing requirement to provide a supply chain statement under regulation 26 of the Allocation Regulations for the relevant allocation rounds. As the SIR application process will take place ahead of the main CFD allocation round, amendments are made to separate the commencement of an allocation round from the CFD application opening date (regulations 4 and 5) and to provide for an SIR allocation framework, process and budget, and for applications for SIR statements. The existing provisions which concern the second, main stage of the CFD allocation process are amended so that they are referred to as the “contract” allocation framework, process and budget.

Part 3 amends the EMR Regulations to insert provisions relating to SIR implementation statements, which are to be provided by the Secretary of State where satisfied that obligations relating to SIRs are being met. This Part also amends the similar existing provision concerning supply chain statements which are already required for certain CFD units (regulation 55, amending regulation 9 of the EMR Regulations). This adds an additional matter (increasing the sustainability of supply chains) to the list of matters to be considered by the Secretary of State when deciding whether to provide a supply chain statement.

Part 4 amends the Eligible Generator Regulations consequentially on the structural amendments made to the EMR Regulations.

Part 5 amends the Standard Terms Regulations to insert an additional matter which must be included in the standard terms of CFDs, which are issued by the Secretary of State under section 11 of the Energy Act 2013. This will require CFDs to set out the circumstances in which performance-related adjustments may be made to payments under CFDs, which will be a possibility in relation to SIRs. Amendments consequential on the separation of the commencement of an allocation round from the CFD application opening date are also made to these Regulations.

A full impact assessment of the effect that the policy implemented by these Regulations will have on the costs of business, the voluntary sector and the public sector is available from the Department for Energy Security and Net Zero, 3 - 8 Whitehall Place, London SW1A 2HH, and is available alongside this instrument on www.legislation.gov.uk.

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