
DRAFT STATUTORY INSTRUMENTS

2014 No.

The Contracts for Difference (Allocation) Regulations 2014

PART 4

Applications for CFDs

CHAPTER 2

Applications and determinations

Commencement of allocation rounds

15. Chapters 2 to 4 apply where an allocation round has commenced further to an allocation round notice or a round variation notice.

Applications

16.—(1) A person may make an application where that person is an eligible generator in respect of the CFD unit described in the application.

(2) A person who makes an application permitted by paragraph (1) is “an applicant”.

(3) Up to and including the application closing date, an application may be withdrawn by the applicant at any time.

(4) The allocation framework may provide for circumstances where, after the application closing date, an application may be withdrawn or be treated as withdrawn.

(5) Subject to any provision described in paragraph (4), an application may not be withdrawn after the application closing date.

Determinations: qualifying applicants

17.—(1) The delivery body must determine whether or not an application qualifies to take part in the allocation process applicable to the application.

(2) Where an application does so qualify, that application is “a qualifying application” and the applicant in respect of that application is “a qualifying applicant”.

(3) An application is not a qualifying application unless the application—

(a) is one to which an allocation process applies in the allocation round;

(b) is not an excluded application;

(c) meets the general qualification requirements set out or referred to in Chapter 3; and

(d) where applicable, meets the additional qualification requirements set out or referred to in Chapter 4.

(4) An applicant must provide with the application—

(a) the information necessary to enable the delivery body—

- (i) to make the determination under paragraph (1); and
- (ii) to give a CFD notification were the application to be a successful application, including the information listed or referred to in Schedule 1;
- (b) where more than one set of standard terms(1) applies in an allocation round, a statement by the applicant which identifies the set which would apply in respect of the application were a CFD to be allocated; and
- (c) where the applicant has reached a modification agreement(2), a statement by the applicant which identifies the agreement.

Information to be provided by the Authority

18.—(1) In order to determine an application, the delivery body may require the Authority to inform it whether or not an accreditation or an application for accreditation applies to a relevant CFD unit.

(2) Where the Authority receives a request under paragraph (1), it must reply as soon as practicable in respect of information held by the Authority at the date on which the request is received(3).

Notices of determinations

19.—(1) Subject to paragraph (4), the delivery body must give a notice to each applicant which states whether or not an application made by the applicant is a qualifying application.

(2) A notice under paragraph (1) must—

- (a) subject to paragraph (3), be given no later than 10 working days after the application closing date; and
- (b) where the delivery body determines that the application is not a qualifying application (“a non-qualification determination”), give reasons for that determination.

(3) The allocation framework which applies to the allocation round may provide for a different period than that stated in paragraph (2)(a) and, where such a period is provided, the obligation in paragraph (2)(b) applies in respect of that period.

(4) A notice is not required under paragraph (1) where, before the notice would otherwise be given,—

- (a) a termination notice has effect in respect of the allocation round; or
- (b) the application is withdrawn.

Reviews of non-qualification determinations

20.—(1) An applicant may give a notice (“a review notice”) to the delivery body to request a review of a non-qualification determination (“a non-qualification review”).

(2) A review notice must—

- (a) subject to paragraph (6), be given by a date (“the non-qualification review request date”) which is no later than 5 working days after the date of the notice containing the non-qualification determination;

(1) See section 11(1) of the Energy Act 2014.

(2) See section 15(2) of the Energy Act 2014.

(3) The prohibitions on disclosure stated in section 19(4)(a) and (b) of the Act do not apply in respect of a disclosure required by virtue of section 19.

- (b) contain the matters specified in paragraph (3) and be made in the form and manner as may be required by the delivery body; and
 - (c) not contain any documentary evidence which was not provided to the delivery body in support of the application which is the subject of the non-qualification determination.
- (3) The matters referred to in paragraph (2)(b) are—
- (a) a concise statement which—
 - (i) identifies the relevant part of the non-qualification determination in dispute; and
 - (ii) sets out the facts on which the applicant relies;
 - (b) a summary of the grounds for disputing the non-qualification determination;
 - (c) a succinct presentation of the arguments supporting each of the grounds for dispute; and
 - (d) a schedule listing the documents submitted with the review notice.
- (4) Where the delivery body receives a review notice in accordance with paragraph (2), it must give a notice (“a non-qualification review notice”) to the applicant which—
- (a) states whether or not the delivery body has determined to uphold the non-qualification determination; and
 - (b) gives reasons for the determination.
- (5) Subject to paragraph (6), a non-qualification review notice must be given by no later than 10 working days after the date on which the review notice is received.
- (6) The allocation framework which applies to the allocation round may provide for a different period than that stated in paragraph (2)(a) or (5), and where such a different period is provided for, the obligation in paragraph (2)(a) or (5) applies in respect of that different period.

Additional applications

- 21.**—(1) Except where paragraph (4) applies, no more than one application in respect of the same CFD unit may be made in the same allocation round, unless the prior application is withdrawn.
- (2) Paragraph (3) applies where in respect of an application (“A”)—
- (a) a non-qualification determination has been given;
 - (b) a review has upheld the non-qualification determination; and
 - (c) the applicant has made an appeal or the period within which an appeal may be brought against the determination has not expired.
- (3) Where this paragraph applies, a further application may be made in the same allocation round in respect of the relevant CFD unit to which A applies only where—
- (a) the Authority upholds the non-qualification determination or no appeal is made; and
 - (b) the further application is made no later than the application closing date.

Requirements of applications

- 22.**—(1) An applicant who makes an application must do so—
- (a) in the form and manner required by the delivery body; and
 - (b) no later than the application closing date.
- (2) Where an application has been made in accordance with paragraph (1), the delivery body must give a notice to the applicant which states the date of receipt of the application.

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, The Contracts for Difference (Allocation) Regulations 2014 ISBN 978-0-11-111731-6
