

---

STATUTORY INSTRUMENTS

---

**2010 No. 1903**

**The Electricity (Competitive Tenders for Offshore  
Transmission Licences) Regulations 2010**

**PART 17**

**MISCELLANEOUS**

**Failure to make payments or provide security**

**26.**—(1) Where the developer fails to make the payment or provide the security in accordance with regulation 7, the Authority may permit that payment or security to be made or provided within a further period specified by the Authority by notice to the developer, such period to be no later than the date on which a notice is published in accordance with regulation 9.

(2) Where the developer fails to make the payment or provide the security in accordance with regulation 7 within the further period specified in accordance with paragraph (1), the Authority may cancel that qualifying project from that tender exercise in accordance with regulation 20.

(3) Where either a bidder or a qualifying bidder fails to make any payment in accordance with these Regulations, the Authority may disqualify that bidder or qualifying bidder from that tender exercise in accordance with regulation 22 if that failure is not remedied within a period not exceeding ten days specified by the Authority by notice to that bidder or qualifying bidder.

**Application for a decision by the Authority**

**27.**—(1) A bidder or qualifying bidder may apply to the Authority for a decision as to the effect of any—

- (a) restriction applied as a result of these Regulations on the making of an application for the grant of an offshore transmission licence; or
- (b) requirement applied by virtue of these Regulations that operates so as to prevent an application for the grant of an offshore transmission licence from being considered or further considered.

(2) Where a bidder or qualifying bidder makes an application in accordance with paragraph (1), the Authority may charge that bidder or qualifying bidder a fee in accordance with the Authority's cost recovery methodology for any decision given in response to it.

**Changes to bidder groups**

**28.**—(1) Where a bidder group seeks to change its membership between the pre-qualification and qualification to tender stages of a tender exercise, the Authority shall permit that change provided that the new membership of that bidder group meets the pre-qualification selection criteria set out in the pre-qualification documentation issued in accordance with regulation 11(1).

(2) Any change to the membership of a bidder group after a qualification to tender questionnaire has been submitted to the Authority shall be considered by the Authority on a case by case basis and

will be subject to the Authority's discretion to determine whether or not to allow that change would be fair and equitable to all other bidders or qualifying bidders participating in the tender exercise in respect of that particular qualifying project.

(3) Where the Authority has permitted any change to the membership of bidder group in accordance with paragraph (1) or (2), it may give notice to a bidder or qualifying bidder of the amount of any payment payable to the Authority as calculated in accordance with its cost recovery methodology in relation to its bidder group determination.

### **Changes to delivery of documents or actions**

**29.**—(1) Where the Authority determines that it is impracticable—

- (a) for any document or notice which is to be delivered to or published by the Authority in accordance with these Regulations to be delivered or published by the time, date or in the manner specified in accordance with these Regulations; or
- (b) for any action which is required to be undertaken in accordance with these Regulations, to be completed by the time, date or in the manner specified,

then paragraph (2) applies.

(2) Where this paragraph applies, the Authority shall take reasonable steps to give notice to a developer, bidder, qualifying bidder, preferred bidder, reserve bidder or successful bidder, as the case may be, that—

- (a) delivery or publication shall be made by a different time or date or in a different manner; or
- (b) the action shall be completed by a different time or date or in a different manner.

### **Disapplication of certain provisions**

**30.**—(1) No application for an offshore transmission licence shall be considered or granted by the Authority other than in accordance with these Regulations.

(2) Sections 6A and 6B of the 1989 Act and any regulations made under them shall be dispensed with insofar as they relate to an application for an offshore transmission licence.

### **Transitional provisions**

**31.**—(1) Where a tender exercise has commenced under the 2009 Regulations but has not finished in accordance with the 2009 Regulations at the date upon which these Regulations come into force, that tender exercise shall be treated thereafter as having being held under these Regulations.

(2) A tender exercise to which paragraph (1) applies which conforms to the requirements of the 2009 Regulations shall not be treated as defective by virtue only of failure to comply with the requirements of these Regulations in respect of any aspect of the tender exercise held prior to the date upon which these Regulations come into force.