
STATUTORY INSTRUMENTS

2016 No. 363

**The Electricity Supplier Payments
(Amendment) Regulations 2016**

PART 2

**Amendment of the Contracts for Difference
(Electricity Supplier Obligations) Regulations 2014**

Amendment of the ESO Regulations (regulation 2)

3.—(1) Regulation 2 of the ESO Regulations is amended as follows.

(2) At the appropriate place in paragraph (1) insert—

““BM Unit” has the meaning given in the Balancing and Settlement Code (see section X of that code) and “registered” in relation to a BM Unit means registered in accordance with the requirements of section K of the Balancing and Settlement Code;”.

Amendment of the ESO Regulations (regulation 6)

4.—(1) Regulation 6 of the ESO Regulations is amended as follows.

(2) For paragraphs (2) and (3) substitute—

“(2) The CFD counterparty must determine an interim levy rate for a quarterly obligation period (“the rate period”) before the commencement of the quarterly obligation period which immediately precedes the rate period.

(3) Where the CFD counterparty has determined an interim levy rate for a quarterly obligation period it must—

- (a) as soon as reasonably practicable, publish a notice setting out that rate and issue that notice to every electricity supplier who has a BM Unit registered as at the day before the date of publication of the notice; and
- (b) issue that notice to every electricity supplier who has a BM Unit that becomes registered on or after the date of publication of the notice and by the last day of the quarterly obligation period to which that rate applies, as soon as reasonably practicable after the BM Unit is registered.”.

Amendment of the ESO Regulations (regulation 7)

5.—(1) Regulation 7 of the ESO Regulations is amended as follows.

(2) For paragraph (1) substitute—

“(1) The estimated quarterly obligation period payment cost in respect of a quarterly obligation period (“the rate period”) is the sum of the CFD counterparty’s estimates of TGPR and NDSR in respect of that period, estimated by the CFD counterparty having regard to the matters set out in paragraph (2).”.

- (3) In paragraph (2) omit—
 - (a) each occurrence of the words “in respect of which payments may become due”; and
 - (b) paragraph (v).
- (4) In paragraph (3)—
 - (a) for “amount which the CFD counterparty estimates it will receive from CFD parties during” substitute “sum of the CFD counterparty’s estimates of TCPR and NGSR in respect of”; and
 - (b) omit sub-paragraph (b).
- (5) In paragraph (5)—
 - (a) after the definition of CFD generating station insert—
 - ““CP” and “GP” are to be construed in accordance with regulation 4;” and
 - (b) after the definition of “market reference price”, “settlement hour”, “settlement period” and “strike price” insert—
 - ““NDS” and “NGS” are to be construed in accordance with regulation 5;
 - “NDSR” means the NDS required to be paid by the CFD counterparty during the rate period;
 - “NGSR” means the NGS which is paid to the CFD counterparty during the rate period;
 - “TCPR” means the sum of all CP paid to the CFD counterparty in respect of electricity generation during the rate period; and
 - “TGPR” means the sum of all GP required to be paid by the CFD counterparty in respect of electricity generation during the rate period.”.

Amendment of the ESO Regulations (regulation 10)

- 6.—(1) Regulation 10 of the ESO Regulations is amended as follows.
- (2) After paragraph (1) insert—
 - “(1A) The CFD counterparty must make and publish its determination of the total reserve amount for a quarterly obligation period before the commencement of the quarterly obligation period which immediately precedes that period.”.
- (3) For paragraph (2) substitute—
 - “(2) The CFD counterparty must determine the amount of each electricity supplier’s reserve payment for a quarterly obligation period before the 8th working day of the quarterly obligation period which immediately precedes that period.”.
- (4) Omit paragraph (3).
- (5) For paragraph (4) substitute—
 - “(4) The CFD counterparty must issue to every relevant supplier a notice which sets out the amount of that supplier’s reserve payment for a quarterly obligation period before the 8th working day of the quarterly obligation period which immediately precedes that period.
 - (4A) For the purpose of paragraph (4), a “relevant supplier” is an electricity supplier who supplied electricity during the reference period (within the meaning given by regulation 11(4)).”.

Amendment of the ESO Regulations (regulation 11)

- 7.—(1) Regulation 11 of the ESO Regulations is amended as follows.

(2) At the end of paragraph (4) insert “before the CFD counterparty makes its determination under regulation 10(1A) in respect of the relevant period”.

Amendment of the ESO Regulations (regulation 12)

8.—(1) Regulation 12 of the ESO Regulations is amended as follows.

(2) In paragraphs (1), (2) and (3) for “during”, in each place it occurs, substitute “in respect of”.

Amendment of the ESO Regulations (regulation 13)

9.—(1) Regulation 13 of the ESO Regulations is amended as follows.

(2) In paragraph (1) for “relation to”, in each place it occurs, substitute “respect of electricity supply during”.

(3) For paragraph (3) substitute—

“(3) Where the CFD counterparty has determined an adjusted interim levy rate it must—

(a) as soon as reasonably practicable, publish a notice setting out that rate and issue that notice to every electricity supplier who has a BM Unit registered as at the day before the date of publication of the notice;

(b) issue that notice to every electricity supplier who has a BM unit that becomes registered on or after the date of publication of the notice and by the last day of the quarterly obligation period during which that rate has effect, as soon as reasonably practicable after the BM Unit is registered; and

(c) where paragraph (5) applies, specify a date on which the rate shall have effect.”.

(4) In paragraph (4) for “An adjusted interim levy rate” substitute “Where the adjusted interim levy rate is greater than the previous levy rate, it”.

(5) After paragraph (4) insert—

“(5) Where the adjusted interim levy rate is less than the previous levy rate, it has effect from the date specified in the notice published under paragraph (3).

(6) For the purpose of paragraphs (4) and (5), “previous levy rate” means the interim levy rate or the adjusted interim levy rate most recently determined in respect of the rate period.”.

Amendment of the ESO Regulations (regulation 14)

10.—(1) Regulation 14 of the ESO Regulations is amended as follows.

(2) In paragraph (3) after “supplier” insert “who supplied electricity during the adjusted reference period”.

(3) In paragraph (5) for “purpose of paragraph (4)” substitute “purposes of paragraphs (3), (4) and (6)”.

(4) In paragraph (6)(b) after “supplier” insert “who supplied electricity during the adjusted reference period”.

Amendment of the ESO Regulations (regulation 15)

11.—(1) Regulation 15 of the ESO Regulations is amended as follows.

(2) In paragraph (3) for “electricity supplier” substitute “relevant supplier”.

(3) After paragraph (3) insert—

“(4) For the purpose of paragraph (3), a “relevant supplier” is an electricity supplier who—

- (a) supplied electricity during the reconciliation period,
- (b) is due to make or receive a reconciliation payment, or
- (c) is due to make a reserve payment.”.

Amendment of the ESO Regulations (regulation 17)

12.—(1) Regulation 17 of the ESO Regulations is amended as follows.

- (2) At the end of paragraph (1) insert “who supplied electricity during the reference period”.
- (3) In paragraph (2) omit sub-paragraphs (c) and (d).
- (4) Omit paragraph (4).
- (5) In paragraph (8)—
 - (a) for “purposes of paragraph (7)” substitute “purposes of paragraphs (1) and (7)”;
 - (b) in sub-paragraph (a)—
 - (i) omit paragraph (i) and the word “or” that follows it; and
 - (ii) in paragraph (ii), omit “in respect of any other default,”.

Amendment of the ESO Regulations (regulation 18)

- 13.—(1) Regulation 18 of the ESO Regulations is amended as follows.
- (2) In paragraph (3) for “5th” substitute “15th”.

Amendment of the ESO Regulations (regulation 20)

- 14.—(1) Regulation 20 of the ESO Regulations is amended as follows.
- (2) In paragraph (5) before “electricity suppliers” insert “BM registered”.
- (3) After paragraph (5) insert—
 - “(5A) In paragraph (5), “BM registered electricity suppliers” means electricity suppliers who have a BM unit registered as at the day before the date the notice is issued.”.
- (4) In paragraph (6) after “suppliers” insert “who were sent the first notice”.

Amendment of the ESO Regulations (regulation 22)

- 15.—(1) Regulation 22 of the ESO Regulations is amended as follows.
- (2) In paragraph (3) for “5” substitute “15”.

Amendment of the ESO Regulations (regulation 23)

- 16.—(1) Regulation 23 of the ESO Regulations is amended as follows.
- (2) In paragraph (7)(a) for “£0.0397” substitute “£0.0509”.

Amendment of the ESO Regulations (regulation 25)

- 17.—(1) Regulation 25 of the ESO Regulations is amended as follows.
- (2) In paragraph (2)—
 - (a) after sub-paragraph (c) insert “and”;

- (b) after sub-paragraph (d) omit “; and”; and
- (c) omit sub-paragraph (e).

Amendment of the ESO Regulations (regulation 28)

18.—(1) Regulation 28 of the ESO Regulations is amended as follows.

(2) After paragraph (4) insert—

“(5) The CFD counterparty must publish information which relates to its estimates of the liabilities of electricity suppliers arising during three consecutive quarterly obligation periods (“the projection period”).

(6) The CFD counterparty must publish information under paragraph (5) no later than two quarterly obligation periods before the start of the first quarterly obligation period to which that information relates.

(7) The information published under paragraph (5) must include—

- (a) an estimate of the interim levy rate that would apply to each quarterly obligation period during the projection period;
- (b) an estimate of the total reserve amount for each quarterly obligation period during the projection period;
- (c) an estimate of CFD party payments and CFD counterparty payments which may arise in respect of each quarterly obligation period during the projection period.

(8) The CFD counterparty is not required to publish any information under paragraph (5) relating to generators that have applied for but not been awarded CFDs or that may apply for CFDs in future.”.

Amendment of the ESO Regulations (regulation 30)

19.—(1) Regulation 30 of the ESO Regulations is amended as follows.

(2) In paragraph (1)—

(a) for sub-paragraph (b) substitute—

“(b) that supplier is liable to pay determined payments; and”;

(b) after sub-paragraph (b) insert—

“(c) the CFD counterparty considers that there is a high degree of likelihood that the electricity supplier will fail to pay a determined payment.”.

(3) At the end of paragraph (2) insert “, subject to paragraph (2A)”.

(4) After paragraph (2) insert—

“(2A) The maximum amount the CFD counterparty may retain under paragraph (2) is the amount equal to the sum of all determined payments which the supplier is liable to pay at the relevant date.”.

(5) In paragraph (5)—

(a) after sub-paragraph (b) omit “and”;

(b) after sub-paragraph (c) insert—

“; and

(d) which the supplier must make within 5 working days of the relevant date”.

Amendment of the ESO Regulations (new regulation 30A)

20.—(1) The ESO Regulations are amended as follows.

(2) After regulation 30 insert—

“Netting of payments by the CFD counterparty

30A.—(1) This regulation applies where—

- (a) the CFD counterparty must make a payment of an amount to an electricity supplier under these Regulations by a certain date (the “counterparty payment”); and
- (b) that supplier must make a payment of an amount to the CFD counterparty by the same date (the “supplier payment”).

(2) Where the counterparty payment is more than the supplier payment, payment of the counterparty payment less the supplier payment discharges—

- (a) the CFD counterparty’s obligation to make the counterparty payment, and
- (b) the supplier’s obligation to make the supplier payment.

(3) Where the counterparty payment is less than the supplier payment, payment of the supplier payment less the counterparty payment discharges—

- (a) that supplier’s obligation to make the supplier payment, and
- (b) the CFD counterparty’s obligation to make the counterparty payment.

(4) Where this regulation applies and the counterparty payment is equal to the supplier payment—

- (a) the CFD counterparty’s obligation to make the counterparty payment is discharged, and
- (b) the supplier’s obligation to make the supplier payment is discharged.”.

Amendment of the ESO Regulations (regulation 31)

21.—(1) Regulation 31 of the ESO Regulations is amended as follows.

(2) In paragraph (6) for “, 23(6) or 25(5)” substitute “or 23(6)”.

Amendment of the ESO Regulations (Schedule)

22.—(1) The Schedule to the ESO Regulations is amended as follows.

(2) After paragraph 29 insert—

“29A. Regulation 30A has effect as if—

- (a) each reference in paragraph (1) to “the CFD counterparty” is to “a CFD counterparty”,
- (b) the reference in paragraph (2)(a) to “the CFD counterparty” is to “that CFD counterparty”,
- (c) the reference in paragraph (3)(b) to “the CFD counterparty” is to “that CFD counterparty”,
- (d) the reference in paragraph (4)(a) to “the CFD counterparty” is to “that CFD counterparty”.”.