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DRAFT STATUTORY INSTRUMENTS

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**2014 No.**

**The Contracts for Difference (Allocation) Regulations 2014**

**PART 4**

**Applications for CFDs**

**CHAPTER 3**

**General qualification requirements**

**Requirement for applicable planning consents**

**23.**—(1) Paragraphs (2) to (5) are subject to paragraph (7).

(2) Subject to paragraph (3), the applicant must provide copies of the applicable planning consents which apply to any works (“relevant works”) which enable—

- (a) the relevant CFD unit to be established or altered;
- (b) electricity generated from the relevant CFD unit to be supplied, as applicable, to—
  - (i) the national transmission system for Great Britain;
  - (ii) the distribution system; or
  - (iii) a private network.

(3) Paragraph (2) does not require the provision of any of the applicable planning consents in respect of any relevant works to which a connection agreement applies, where those works are undertaken by a person other than the applicant.

(4) “Relevant works” includes any of the following works—

- (a) the alteration, construction or removal of any plant, building or other structure;
- (b) the alteration, installation or removal of any cable, line, pipeline or other service media;
- (c) any works associated with the matters described in sub-paragraph (a) or (b).

(5) Paragraph (2) applies in respect of relevant works undertaken or to be undertaken by the applicant or any other person on the applicant’s behalf.

(6) Where the applicant considers that in respect of the relevant works—

- (a) any of the applicable planning consents do not apply; or
- (b) a general permission or consent or an exemption applies,

the applicant must provide details of those matters to the delivery body.

(7) The allocation framework which applies to an allocation round may, in respect of the allocation round to which the framework applies, amend, add to or remove the requirements in any of paragraphs (2) to (5) and the general qualification requirements are so modified where such an amendment, addition or removal is made.

### Applicable planning consents

24.—(1) “Applicable planning consents” are—

- (a) a development order or, in respect of relevant works in waters in or adjacent to Wales up to the seaward limits of the territorial sea, a TWA order;
- (b) a planning permission;
- (c) a section 36 consent;
- (d) where any relevant works involve a licensable marine activity, a marine licence.

(2) In this regulation—

“development order” means a development consent order under section 114 of the Planning Act 2008(1);

“licensable marine activity” has the meaning given—

- (a) except where paragraph (b) applies, in section 66 of the Marine and Coastal Access Act 2009(2); or
- (b) in respect of relevant works in the Scottish marine area, in section 21 of the Marine (Scotland) Act 2010(3);

“marine licence” has the meaning given—

- (a) except where paragraph (b) applies, in Part 4 of the Marine and Coastal Access Act 2009; or
- (b) in respect of relevant works in the Scottish marine area, in Part 4 of the Marine (Scotland) Act 2010;

“planning permission” means in respect of relevant works in—

- (a) England or Wales, planning permission under Part 3 of the Town and Country Planning Act 1990(4);
- (b) Scotland, planning permission under Part 3 of the Town and Country Planning (Scotland) Act 1997(5);

“Scottish marine area” has the meaning given by section 1 of the Marine (Scotland) Act 2010;

“section 36 consent” means a consent under section 36 of the Electricity Act 1989(6);

“TWA order” means an order under section 3 of the Transport and Works Act 1992(7).

### Connection agreements

25.—(1) Paragraphs (2) to (4) are subject to paragraph (5).

(2) Where a direct connection or a partial connection applies or is to apply to the relevant CFD unit, the applicant must provide a copy of each of the connection agreements applicable to the relevant CFD unit which allows such connection.

(3) Where a direct connection or a partial connection does not apply or is not to apply to the relevant CFD unit, the applicant must provide a statement that—

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- (1) 2008 c. 29. Section 114 was amended by section 128(2) of, and paragraphs 1 and 55(1) and (2)(a) of Part 1 of Schedule 13 to, the Localism Act 2011 (c. 20).
  - (2) 2009 c. 23.
  - (3) 2010 asp 5.
  - (4) 1990 c. 8.
  - (5) 1997 c. 8.
  - (6) 1989 c. 29. Section 36 has been amended by: section 93 of the Energy Act 2004 (c. 20), section 36 of, and Schedule 2 to, the Planning Act 2008 (c. 29), section 12 of the Marine and Coastal Access Act 2009 (c. 23) and, in relation to Scotland, by S.I. 2006/1054.
  - (7) 1992 c. 42. Section 3 has been amended by section 36 of, and Schedule 2 to, the Planning Act 2008.

- (a) no such connection is, or is to be, applicable; and
- (b) no agreement to allow such a connection has been obtained or is to be sought during the period in which a CFD may apply to the relevant CFD unit.

(4) Where a partial connection applies or is to apply to a relevant CFD unit, the applicant must provide a statement setting out how data in respect of metering of electricity supply is to be provided to the CFD counterparty.

(5) The allocation framework which applies to an allocation round may amend, add to or remove the requirements in any of paragraphs (2) to (4) and the general qualification requirements are so modified where such an amendment, addition or removal is made.

(6) In this regulation—

“connection agreement” means an agreement to connect to—

- (a) the national transmission system for Great Britain; or
- (b) the distribution system,

entered into by the operator of the relevant system;

“direct connection” means a connection to—

- (a) the national transmission system for Great Britain; or
- (b) the distribution system,

which applies to all the electricity generated by the relevant CFD unit;

“partial connection” means a connection to—

- (a) the national transmission system for Great Britain; or
- (b) the distribution system,

which applies to part only of the electricity generated by the relevant CFD unit.