

2016 No. 1246

ELECTRICITY

**The Contracts for Difference (Allocation) (Excluded Sites)
Amendment Regulations 2016**

Made - - - - *14th December 2016*

Coming into force in accordance with regulation 1(1)

The Secretary of State has before making these Regulations—

- (a) consulted the persons listed in section 24(1)(a) to (g) of the Energy Act 2013(a) and such other persons as the Secretary of State considered it appropriate to consult; and
- (b) had regard to the matters in section 5(2) of that Act.

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

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 6(1) and (6), 12(1) and (3), 13(1), 19 and 21(1)(b) of the Energy Act 2013, makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as The Contracts for Difference (Allocation) (Excluded Sites) Amendment Regulations 2016 and come into force on the day after the day on which they are made.

(2) These Regulations do not extend to Northern Ireland.

Amendments to the Contract for Difference (Allocation) Regulations 2014

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

Amendment to regulation 2

3. In regulation 2 (interpretation), omit the definition of “exclusion period”(c).

Amendment to regulation 14A

4.—(1) Regulation 14A(d) (temporary site exclusions and exemption certificates) is amended as follows.

(a) 2013 c. 32.
(b) S.I. 2014/2011, as amended by S.I. 2015/981, S.I. 2016/784 and S.I. 2016/1053.
(c) The definition of “exclusion period” was inserted by S.I. 2015/981.
(d) Regulation 14A was inserted by S.I. 2015/981.

(2) Replace paragraph (1)(b) with the following—

“(b) a CFD was entered into and was subsequently terminated, and either or both of the following circumstances apply—

- (i) the CFD was terminated on a date which is earlier than 13 months after the date on which the CFD notification was given in respect of the CFD; or
- (ii) the reason for the termination was that the eligible generator failed to achieve the stages for delivery for that CFD unit which were required under the CFD to be met by the date determined in accordance with the CFD as the Milestone Delivery Date;

(each “a non-delivery case”).”.

(3) In paragraph (2)—

(a) in sub-paragraph (a) replace “eligible generating station” with “CFD unit”; and

(b) replace sub-paragraph (b) with—

“(b) the application is made in—

- (i) any allocation round where the commencement date of that round occurs in the period of 13 months beginning with the date on which the relevant CFD notification was given; or
- (ii) the first allocation round to have a commencement date occurring between the end of that period and 24 months beginning with the date on which the relevant CFD notification was given.”.

(4) In paragraph (6)—

(a) in the definition of “excluded site” replace “eligible generating station” with “CFD unit”;

(b) omit the definition of “exclusion period”.

Amendment to regulation 14B

5.—(1) Regulation 14B(a) (grounds for granting exemption certificates) is amended as follows.

(2) In paragraph (7), replace “or “Relevant Construction Event”” with “, “Relevant Construction Event” or “Sustainability Change in Law””.

(3) In paragraph (8), in the definition of “site A” replace “generating station” with “CFD unit”.

Amendment to regulation 14C

6. In regulation 14C(b) (requests for exemption certificates), in paragraph (6)(e), replace “generating station” with “CFD unit”.

Amendment to regulation 14D

7. In regulation 14D(c) (register of sites to which a temporary site exclusion applies), replace paragraph (1)(b) with the following—

“(b) the date on which the CFD notification was given for (as applicable)—

- (i) the CFD the offer of which lapsed; or
- (ii) the CFD which was terminated;”.

Neville-Rolfe
Minister of State

14th December 2016

Department for Business, Energy and Industrial Strategy

(a) Regulation 14B was inserted by S.I. 2015/981.
(b) Regulation 14C was inserted by S.I. 2015/981.
(c) Regulation 14D was inserted by S.I. 2015/981.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Contracts for Difference (Allocation) Regulations 2014 (S.I. 2014/2011) (the “Allocation Regulations”).

Regulation 4 amends regulation 14A of the Allocation Regulations, which temporarily excludes a CFD application from being made in respect of a site in certain cases:

— to extend the non-delivery case to include a site in respect of which a previous CFD was terminated either less than 13 months after the CFD notification was given, or (at any time) for failure to achieve stages for delivery for that CFD Unit by the Milestone Delivery Date, unless an exemption applies;

— to amend the period for which a temporary site exclusion prohibits a CFD application from being made so that, in addition to being excluded from any CFD allocation round in the first 13 months post-CFD notification, no application may be made to the first CFD allocation round commencing between the end of that period and 24 months post-CFD notification.

Regulation 5 amends regulation 14B(7) of the Allocation Regulations to include cases where a CFD has been terminated because of a “Sustainability Change in Law” as a ground on which the Secretary of State may grant an exemption certificate for a site otherwise subject to a temporary site exclusion for non-delivery under regulation 14A (‘Ground 5’).

Regulation 7 amends regulation 14D of the Allocation Regulations to make clear that the register of sites to which a temporary site exclusion applies should set out the date CFD notification was given for the CFD the offer of which lapsed or which terminated.

A full impact assessment of the effect that the CFD scheme will have on costs to the business and the voluntary sectors is available from the Department for Business, Energy and Industrial Strategy at 3 Whitehall Place, London, SW1A 2AW and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

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