EXPLANATORY MEMORANDUM TO

THE CONTRACTS FOR DIFFERENCE (ALLOCATION) (AMENDMENT) REGULATIONS 2026

2026 No. XXXX

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Michael Shanks, Minister of State for Energy at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

2.2 Lucy Longstaff, Deputy Director for Renewables Delivery, at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Ankita Mehra at the Department for Energy Security and Net Zero Email: ankita.mehra@energysecurity.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These Regulations make several minor and technical amendments to the Contracts for Difference (Allocation) Regulations 2014 (the "Allocation Regulations") following a public consultation. The changes will improve the operational efficiency of the CfD scheme during the assessment of applications for the construction and operation of renewable electricity power stations.

4.2 The purpose of these amendments is to:

i. allow the National Energy System Operator (NESO) - the delivery body for the CfD scheme – to correct certain types of errors it makes during the assessment of CfD applications;

ii. allow NESO to consider additional documentary evidence or information when considering appeals from applicants whose applications have been determined by NESO to be non-qualifying;

iii. clarify how NESO should treat pending applications where decisions on the eligibility of those applications remain undetermined at the point at which the regulations require NESO to proceed with the contract allocation process, i.e. to commence the process leading to the decision on the award of contracts to successful applicants.

Where does the legislation extend to, and apply?

4.3 The territorial extent of the amendments to the Allocation Regulations made by this instrument is England and Wales, and Scotland. The territorial application of the amendments to the Allocation Regulations made by this instrument is England, Wales and Scotland.

5. Policy Context

What is being done and why?

5.1 The CfD scheme is the government's main mechanism for supporting new low-carbon electricity generation projects in Great Britain. Contracts are awarded to electricity generators in a series of competitive auctions which are held approximately every year. Applicants' must satisfy certain eligibility criteria before they can compete for contracts. NESO assesses applications against the criteria in the Contract Allocation Framework and issues determinations on whether or not applications qualify to participate in the competitive process. NESO also considers first-stage appeals (known as 'Tier 1' appeals) from applicants whose applications NESO have determined are non-qualifying.

5.2 As the CfD scheme has grown in popularity, the number of applications has increased significantly, with several hundred applications received in recent allocation rounds. Although eligibility checks are very robust, larger numbers of applications increases the risk of errors during detailed eligibility checks, impacting the scheme's efficiency and raising the risk of unintended outcomes, e.g. projects qualifying when they should not. The Allocation Regulations are being amended to allow NESO to correct certain types of delivery body errors and to consider new documentary evidence or information when examining 'Tier 1' appeals in respect of non-qualifying applications.

5.3 The Allocation Regulations are also being amended to clarify the treatment of pending applications in light of operational experience from Allocation Round 7 (AR7) held in 2025.

5.4 In addition, the SI makes provision for procedures or information relating to the implementation of several amendments to be set out in the Contract Allocation Framework. The Contract Allocation Framework is a statutory document made under regulation 6 of the Allocation Regulations. It contains the eligibility criteria, rules governing how CfDs are to be allocated by NESO and other relevant information that apply to a specific allocation round.

Correcting delivery body errors in notices of determinations

5.5 The Allocation Regulations and the Contract Allocation Framework require NESO to determine whether applications pertaining to a CfD allocation round satisfy the eligibility criteria and are therefore entitled to participate in the round. NESO must issue a determination notice to each applicant confirming whether or not their application has qualified. A 'non-qualification determination' is issued in the case of applications which have not satisfied the eligibility criteria and must state the specific grounds on which the application is non-qualifying. The applicant of a non-qualifying application may ask NESO to review a non-qualification determination, and may subsequently appeal to Ofgem if NESO upholds its non-qualification determination following review (i.e. these are informally known as Tier 1 and Tier 2 appeals respectively).

5.6 While the Allocation Regulations allow applicants to appeal against non-qualification determinations, they do not currently allow NESO to correct delivery body errors made in determination notices which fall outside the scope of the current appeal provisions. Such errors might include incorrectly qualifying an application which should have been determined as non-qualifying or issuing an incomplete non-determination notice, in which some grounds for exclusion have been omitted in error.

5.7 New regulation 20A of the Allocation Regulations allows NESO, if provided for in the Contract Allocation Framework, to issue a non-qualification determination notice to applicants who have previously qualified in error, and an amended non-qualification determination to applicants who have previously received a non-qualification determination containing an error, together defined as "amended determinations". This amendment seeks to ensure that only properly qualifying applicants are able to participate in the contract allocation process.

5.8 The practical effect of new regulation 20A is that it allows for the circumstances in which an amended determination can be given, the administrative arrangements around the amended determination process, and how applicants can appeal against amended determinations to be set out in the Contract Allocation Framework. Regulation 20A stipulates that if the Contract Allocation Framework provides for amended determinations to be given, it (the Contract Allocation Framework) may also provide for regulations 19, 20, 21, 29, 31, 32, 33, 49, 50 and 51 of the Allocation Regulations to apply with such modifications as the Secretary of State considers necessary to take account of amended determinations.

New documentary evidence or information

5.9 Regulation 20 of the Allocation Regulations will be amended to allow NESO during Tier 1 reviews to consider new documentary evidence or information of a description as provided for in the Contract Allocation Framework. The practical effect of this amendment is that it will allow for descriptions of the type of errors and omissions in applications that additional information or evidence can be used to rectify, and the type of additional evidence and information that NESO can consider, to be contained in the Contract Allocation Framework. Currently, the Allocation Regulations prohibit an applicant from submitting any documentary evidence which was not provided to NESO in support of an application which NESO has determined is non-qualifying.

Clarifying the treatment of Pending Applications

5.10 The SI will amend Part 8 of the Allocation Regulations concerning 'Pending applications'. Currently, the 'Pending applications' process does not align with NESO's operational processes and is ambiguous with respect to when a re-run of the auction is required. Although the 'Pending applications' mechanism was not triggered during Allocation Round 7 (AR7), due to the increase in volume of applications, we consider that the process will need to be more effective in future allocation rounds.

5.11 Regulation 49 will expand the definition of a 'pending application' and 'pending applicant' to include applicants who, by the time the contract allocation process has commenced, have received an Ofgem appeal decision upholding their disqualification and are still within time to appeal to Court, and applicants who have an undetermined Court appeal.

5.12 The current Allocation Regulations provide that NESO can receive pending bids from pending applicant(s) and should not include the pending bid(s) in the allocation process, but do not explicitly state that NESO should not share pending bids with the Secretary of State. The amendment to regulation 50(2)(c) removes the obligation for

NESO not to "become aware of the content of a pending bid". Regulation 54, which concerns the information about applications and bids that can be shared by NESO, has been amended so that it limits the ability of the Secretary of State to direct NESO to provide them with the content of any pending bid.

5.13 The SI will amend Part 8 of the Allocation Regulations concerning 'Pending applications'. Currently, the 'Pending applications' process does not align with NESO's operational processes and is ambiguous with respect to when a re-run of the auction is required. Although the 'Pending applications' mechanism was not triggered during Allocation Round 7 (AR7), due to the increase in volume of applications, we consider that the process will need to be more effective in future allocation rounds. Regulation 49 will expand the definition of a 'pending application' and 'pending applicant' to include applicants who, by the time the contract allocation process has commenced, have received an Ofgem appeal decision upholding their disqualification and are still within time to appeal to Court, and applicants who have an undetermined Court appeal.

6. Legislative and Legal Context

How has the law changed?

6.1 Amendments have been made to regulations 20 (Reviews of non-qualification determinations), 49 (Application of this Part), 50 (Strike price bids), 51 (Successful applications determined by the Authority) and 54 (Allocation reports). A new regulation 20A (delivery body error in notices of determination) has also been inserted.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes. The measures cannot be achieved through other, e.g. administrative, means.

6.3 Amendments to the Allocation Regulations, specifically with respect to enabling NESO to issue amended determinations, allow the delivery body to more fully exercise its duties under the Allocation Regulations. Enabling NESO to amend determinations, where evidence supports this, is appropriate to ensure greater consistency and fairness in how the CfD eligibility requirements are applied in an allocation round.

6.4 The amendment to permit CfD applicants to submit additional documentary evidence or information during NESO's Tier 1 review stage is to prevent project(s) being disqualified for trivial or non-material mistakes that cannot be rectified within the existing appeals process. This amendment has the potential to increase competition in an allocation round and contribute to lower consumer bills.

6.5 The technical amendments made to Part 8 of the Allocations Regulations concerning 'Pending applications' seek to bring the regulatory process into alignment with NESO's operational processes and to clarify some ambiguity within the current regulations.

7. Consultation

Summary of consultation outcome and methodology

7.1 The changes reflected in this instrument were subject to a six and a half week consultation1 from 16 December 2025 to 30 January 2026. The consultation received 79 responses, with the majority coming from industry (trade associations, renewables

developers and supply chain companies) and a small number from public bodies, investors and individuals.

7.2 The overall response was very positive, with very high levels of support for several proposals. Very strong support (87%) was received for the changes that will allow NESO to correct delivery body errors during the assessment of applications; allow new documentary evidence to be submitted to help avoid projects being disqualified for minor or trivial omissions in their applications (98%); and allow for the detailed administrative arrangements to implement some of the legislative changes to be set out in the Contract Allocation Framework (up to 98%).

7.3 A majority (more than 50% in each case) supported pausing the allocation process only for projects that are issued an amended determination and retaining the current two-tier appeal process for applications so affected. Several respondents expressed reservations about giving NESO the ability to disqualify applications after they have been deemed eligible.

7.4 Half of the respondents who commented on the pending applications proposals agreed that regulations should be amended to clarify how NESO should treat such applications. The remaining half confirmed that they were neutral towards the proposals.

7.5 The Scottish and Welsh governments were consulted on the proposals to amend regulations, as required by the Energy Act 2013. No comments were received from those devolved bodies. The CfD scheme does not extend to Northern Ireland.

7.6 The government response to the consultation on proposed amendments to the Allocation Regulations, summarising the consultation responses and the Government's decision to amend those Regulations, was published in March 2026.[1]

8. Applicable Guidance

8.1 The Contract Allocation Framework sets out the requirements and process for an allocation round and provides guidance on the criteria that applicants must satisfy before they can be eligible to participate in an allocation process. It is published on GOV.UK before an allocation round opens to applications. NESO also publish extensive guidance for applicants on the eligibility criteria and evidence requirements for participation in a CfD allocation round.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An Impact Assessment has not been prepared for this instrument because the amendments in the SI are minor and technical and expected to have a de minimis impact on businesses. The amendments are designed to improve the operational efficiency of the CfD application assessment process, the handling of applicant appeals and the administrative treatment of pending applications.

9.2 CfD eligibility checks are very robust and any delivery body errors that do occur are likely to be very rare and few in number, and affect only very small numbers of individual projects. The amendments have very high levels of stakeholder support and should improve the quality of applicants' experience within the assessment

[1] https://assets.publishing.service.gov.uk/media/69bc22ff8006048065f73d38/government-response-on-legislative-changes-for-AR8-and-future-rounds.pdf

process while also allowing for greater competition and better value for money outcomes for bill payers.

Impact on businesses, charities and voluntary bodies

9.3 There is no impact on businesses, charities or voluntary bodies.

9.4 The legislation has no significant impact on small or micro businesses.

9.5 There is no, or no significant, impact on the public sector because the CfD will be open only to companies involved in the renewable electricity industry.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation will entail a review of the effectiveness of legislative changes after every allocation round. This will include reviewing with the delivery body and Ofgem the application of the measures in this SI to determine the extent to which they have fulfilled the policy objectives and may require adjustments.

10.2 The instrument does not include a statutory review clause and, the requirement under section 28(2) of the Small Business, Enterprise and Employment Act 2015 to make provision for review does not apply to this instrument as it falls within an exception in section 28(3) of that Act.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Michael Shanks, Minister of State for Energy at the Department for Energy Security and Net Zero has made the following statement regarding Human Rights:

"In my view the provisions of the Contracts for Difference (Allocation) (Amendment) Regulations 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").