Draft Regulations laid before Parliament under section 6(8) of the Energy Act 2013, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No. XXXX

ELECTRICITY

The Contracts for Difference (Electricity Supplier Obligations) (Amendment) (Coronavirus) Regulations 2020

Made - - - - ***

Coming into force in accordance with regulation 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 the Energy Act 2013, a draft of this instrument was laid before, 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), 6(5), 9(1), (2), (4), (6) and (7), 21(1) and 21(3) of the Energy Act 2013, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Contracts for Difference (Electricity Supplier Obligations) (Amendment) (Coronavirus) Regulations 2020 and come into force on the day after the day on which they are made.

Amendments to the Contracts for Difference (Electricity Supplier Obligations) Regulations 2014

2.—(1) The Contracts for Difference (Electricity Supplier Obligations) Regulations 2014(**b**) are amended as follows.

(2) In regulation 2(1) (interpretation), after the definition of "reserve period" insert—

(**a**) 2013 c.32.

(**b**) S.I. 2014/2014; regulation 5 was amended by S.I. 2015/721, regulation 1(2) and 17, and by S.I. 2017/502, regulation 1(2) and 6. Regulation 7(1) was amended by S.I. 2016/363, regulation 1(3), 5(1) and (2). Regulation 7(3) was amended by S.I. 2016/363, regulation 1(3), 5(1) and (4). Regulation 7(5) was amended by S.I 2016/363, regulation 1(3), 5(1) and (5). Regulation 10(5) was amended by S.I. 2017/502, regulation 1(2), 3 and 7. Regulation 14(2) was amended by S.I. 2017/502, regulation 1(2), 3 and 10(b). Regulation 14A was inserted by S.I. 2017/502 regulation 1(2), 3 and 11. Regulation 32(2) was amended by S.I. 2015/721, regulation 1(2), 34(1) and (3).

““SoS funds” means any financial assistance provided by the Secretary of State to the CFD counterparty (under section 154(2)(b) of the Act) for the purposes of making CFD counterparty payments and adjusting payments due from electricity suppliers in accordance with these Regulations;”.

(3) In regulation 5 (CFD quarterly contribution)—

(a) for the formula, substitute—

$$\text{“}[(NDS + SoS\ repayment) - (NGS + DI + SoS\ payment)] \times \left(\frac{SQS - XEP}{TQS - AXP}\right)\text{„}$$

(b) after the paragraph beginning with “NDS is the sum of—” insert—

“SoS repayment is the total amount of any SoS funds that the Secretary of State had specified were to be used when calculating the CFD quarterly contribution in respect of the quarterly obligation period that ended three whole quarterly obligation periods before the quarterly obligation period for which this calculation is made;”; and

(c) after the paragraph beginning with “DI is any” insert—

“SoS payment is the total amount of any SoS funds that the Secretary of State has specified are to be used when calculating the CFD quarterly contribution in respect of that period;”.

(4) In regulation 7 (estimated cost, income & electricity supply)—

(a) in paragraph (1) after “the sum of ” insert “any SoS repayment and”;

(b) in paragraph (3) after “the sum of ” insert “any SoS funds that the Secretary of State has specified will be available in respect of that rate period and that the Secretary of State has specified should be taken into account when calculating the interim levy rate under regulation 6 and/or adjusting the levy rate under regulation 13 and”; and

(c) in paragraph (5)—

(i) at the end of the definition of “TCPR” omit “and”;

(ii) at the end of the definition of “TGPR” insert—

“; and

“SoS repayment” is to be construed in accordance with regulation 5”.

(5) In regulation 10 (reserve payments)—

(a) in paragraph (5)(a) at the end, omit “and”; and

(b) in paragraph (5)(b) at the end insert—

“; and

(c) any SoS funds that the Secretary of State has specified will be available in respect of that reserve period and that the Secretary of State has specified should be taken into account when adjusting the total reserve amount”.

(6) In regulation 14 (additional total reserve amount)—

(a) in paragraph (2)(c) at the end omit “and”; and

(b) in paragraph (2)(d) at the end insert—

“; and

(e) the amount of any SoS funds that the Secretary of State has specified will be available in respect of that reserve period and that the Secretary of State has specified should be taken into account when adjusting the total reserve amount”.

(7) In regulation 14A—

(a) before paragraph (1) insert the following heading—

"**Determination of reduced total reserve amount**"; and

(b) in paragraph (1), at the end, insert ", taking into account any SoS funds that the Secretary of State has specified will be available in respect of that reserve period and that the Secretary of State has specified should be taken into account when adjusting the total reserve amount".

(8) In regulation 32(2) (use of payments) after "CFD counterparty payments" insert ", making any repayments due to the Secretary of State in relation to any SoS funds which the CFD counterparty must repay to the Secretary of State at such time and in such amount as may be agreed with the CFD counterparty".

Name
Minister of State for Business, Energy and Clean Growth
Date Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Contracts for Difference (Electricity Supplier Obligations) Regulations 2014 (S.I. 2014/2014) (the "2014 Regulations") which impose obligations on persons who supply electricity in Great Britain. CFD (Contracts for Difference) are contracts which the CFD counterparty, a person designated as such under section 7 of the Energy Act 2013, must enter into by virtue of section 10 or 14 of that Act. Under the terms of the CFD, the CFD counterparty must make payments to eligible generators who have secured a CFD (see the Contracts for Difference (Definition of Eligible Generator) Regulations 2014 (S.I 2014/2010) which define eligible generators). The payments made to such eligible generators are funded from payments made to the CFD counterparty by electricity suppliers under the 2014 Regulations.

These Regulations are made in response to a combination of lower electricity demand (resulting from measures introduced to reduce the spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)), and higher payments to CFD eligible generators (because of lower wholesale electricity prices) that mean electricity suppliers would face an increase in payments due under the 2014 Regulations.

Regulation 2 of these Regulations amends the 2014 Regulations to include financial assistance provided by the Secretary of State under the Energy Act 2013 in the calculation of certain payments to be made by the CFD counterparty and some payments to the CFD counterparty by electricity suppliers.

The calculation of an electricity supplier's "CFD quarterly contribution" under regulation 5 of the 2014 Regulations is amended so that it is reduced by the amount of any financial assistance provided in any particular quarterly obligation period, and so that it is subsequently increased by the amount of that financial assistance four quarterly periods later.

Regulation 2 amends regulation 7 of the 2014 Regulations to allow the CFD counterparty to have regard to any financial assistance specified by the Secretary of State to be available for the calculation of the "interim levy rate" and/or in an in-period adjustment of the interim levy rate. The interim levy rate is intended to provide funds to the CFD counterparty to enable it to pay CFD generators.

Regulations 10, 14 and 14A of the 2014 Regulations are amended so that the CFD counterparty may have regard to any financial assistance specified by the Secretary of State to be available when determining the "total reserve amount" (the amount under regulation 10 to be paid to the

CFD counterparty in respect of a quarterly obligation period in order to ensure the CFD counterparty can meet all the payments it might have to make under CFDs), the "additional total reserve amount" (under regulation 14) and the "reduced total reserve amount" (under regulation 14A) in respect of a quarterly obligation period.

Regulation 32 of the 2014 Regulations is also amended to permit the CFD counterparty to repay the financial assistance provided by the Secretary of State from payments made to it by electricity suppliers.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

© Crown copyright 2020

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.90

UK202006041005 06/2020 19585

http://www.legislation.gov.uk/id/ukdsi/2020/9780111196663

ISBN 978-0-11-119666-3

9 780111 196663