Draft Regulations laid before Parliament under section 32L(2) of the Electricity Act 1989 (c. 29) and section 40(5) of the Energy Act 2013 (c. 32), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2026 No.

ELECTRICITY

The Renewables Obligation and Electricity Capacity (Amendment) (British Industrial Competitiveness Scheme Excluded Electricity) Regulations 2026

Made - - - - ***

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 32, 32A, 32J, 32K and 60(3) of the Electricity Act 1989(**a**) and sections 27, 28, 30, 32, 33 and 40(1) of the Energy Act 2013(**b**).

The Secretary of State has consulted the Gas and Electricity Markets Authority, the National Association of Citizens Advice Bureaux, Consumer Scotland (in Gaelic, Luchd-Cleachdaidh Alba)(**c**), electricity suppliers to whom these Regulations apply and such generators of electricity from renewable sources and other persons as the Secretary of State considered appropriate in accordance with section 32L(1) of the Electricity Act 1989.

The Secretary of State has—

(a) in accordance with section 40(2) of the Energy Act 2013 consulted the Gas and Electricity Markets Authority, persons who are a holder of a licence to supply electricity under section 6(1)(d) of the Electricity Act 1989 and such other persons as the Secretary of State considered it appropriate to consult;

(b) in accordance with section 5(1)(d) of the Energy Act 2013 had regard to the matters mentioned in section 5(2) of that Act.

In accordance with section 32L(2) of the Electricity Act 1989 and section 40(5) of the Energy Act 2013, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

(**a**) 1989 c. 29. Sections 32 to 32M were substituted for sections 32 to 32C by section 37 of the Energy Act 2008 (c. 32); section 32K was amended by S.I. 2009/556.
(**b**) 2013 c. 32. Section 27 was amended by S.I. 2024/706.
(**c**) Consumer Scotland has the meaning given in section 1(1) of the Consumer Scotland Act 2020 (asp 11).

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Renewables Obligation and Electricity Capacity (Amendment) (British Industrial Competitiveness Scheme Excluded Electricity) Regulations 2026.

(2) These Regulations come into force on the day after the day on which they are made.

Extent

2. The extent of these Regulations is as follows—

(a) in Part 1 (introduction)—

(i) regulation 1 and this regulation extend to England and Wales and Scotland;

(ii) regulations 3 and 4 extend to—

(aa) England and Wales and Scotland in so far as they relate to electricity capacity regulations (see section 27(2) of the Energy Act 2013);

(bb) England and Wales in so far as they relate to a renewables obligation order (see section 32(4) of the Electricity Act 1989);

(b) Part 2 (BICS excluded electricity) extends to—

(i) England and Wales and Scotland in so far as it relates to electricity capacity regulations;

(ii) England and Wales in so far as it relates to a renewables obligation order;

(c) Parts 3 and 6 (amendment of the Supplier Payment Regulations, etc.) extend to England and Wales and Scotland;

(d) Part 4 (amendment of the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015) extends to England and Wales and Scotland;

(e) Part 5 (amendment of the Renewables Obligation Order 2015) extends to England and Wales.

Interpretation

3.—(1) In these Regulations—

"the 2015 Order" means the Renewables Obligation Order 2015(**a**);

"the Balancing and Settlement Code" has the meaning given in the ESO Regulations(**b**);

"BICS applicant" means a person making a BICS application and, where a BICS determination is in force, the person in respect of whom that determination was made;

"BICS application" means an application under regulation 7;

"BICS determination" has the meaning given in regulation 6(1);

"BICS excluded electricity" means any amount of electricity determined to be such in accordance with regulation 5;

(**a**) S.I. 2015/1947, amended by S.I. 2017/1289 and 2024/403; there are other amending instruments but none is relevant.

(**b**) The Balancing and Settlement Code is available at: https://bscdocs.elexon.co.uk/bsc. Information on how to obtain a hard copy may be obtained by contacting Elexon, 350 Euston Road, 4th Floor, London, NW1 3AW.

"BICS year" means—

(a) in relation to a renewables obligation order, the period beginning on 1st April 2027 and ending on 31st March 2028 and each subsequent period of 12 months, and

(b) in relation to electricity capacity regulations, the period beginning on 1st October 2027 and ending on 30th September 2028 and each subsequent period of 12 months;

"BM Unit Identification Number", "CMRS", "MSID" and "SMRS" are to be construed in accordance with the Balancing and Settlement Code (see Sections X-1 and X-2 of that code);

"the BSCCo" has the meaning given in regulation 2(1) of the ESO Regulations;

"BSC volume allocation run" has the meaning given in regulation 2(1) of the ESO Regulations;

"EII certificate" has the meaning given in regulation 8(1) of the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015(**a**);

"electricity supplier" means a person who is the holder of a licence to supply electricity under section 6(1)(d) of the Electricity Act 1989(**b**);

"ESO Regulations" means the Contracts for Difference (Electricity Supplier Obligations) Regulations 2014(**c**);

"firm" has the meaning given in section 1173(1) of the Companies Act 2006(**d**);

"FIT Scheme" has the meaning given in Schedule A to Standard Condition 33 in the standard conditions of electricity supply licences(**e**);

"manufacturing site" means an area in Great Britain at which a person, who has control over, or use of, the area, carries out the manufacture, production or processing of any product or substance and, for these purposes—

(a) all places adjoining each other under the control of, or used by, that person are to be treated as an area, and

(b) two or more areas under the control of, or used by, that person separated only by a road, railway or inland waterway are to be treated as a single area;

"non-specified activity" means the manufacture, production or processing of any product or substance, except where the manufacture, production or processing of the product or substance is a specified activity;

"officer" has the meaning given in section 1173(1) of the Companies Act 2006;

"related activity" means any activity carried out at a manufacturing site which is necessary for, ancillary or incidental to, or which enables or supports the carrying out of a manufacturing or production activity including, but not limited to, research and development activities and testing materials, substances, components or articles;

(**a**) S.I. 2015/721, amended by S.I. 2017/1051, 2020/130, 2023/415 and 2024/419; there are other amending instruments but none is relevant.

(**b**) Section 6(1)(d) was amended by S.I. 2012/2400.

(**c**) S.I. 2014/2014, to which there are amendments not relevant to this instrument.

(**d**) 2006 c. 46.

(**e**) The Electricity Supply Licence Standard Conditions are available at: https://epr.ofgem.gov.uk/. Standard Condition 33 was inserted with effect from 1st April 2010, and the Schedule to Standard Condition 33 was substituted with effect from 1st December 2012, by modifications made under section 41 of the Energy Act 2008. Hard copies are available from the Department for Energy Security and Net Zero, 3-8 Whitehall Place, London SW1A 2EG.

"Settlement Body" means the person appointed to that position under regulation 80 of the Electricity Capacity Regulations 2014(**a**);

"specified activity" has the meaning given in regulation 4;

"Supplier Payment (Amendment and Excluded Electricity) Regulations" means the Electricity Capacity (Supplier Payment etc.) (Amendment and Excluded Electricity) Regulations 2024(**b**);

"Supplier Payment Regulations" means the Electricity Capacity (Supplier Payment etc.) Regulations 2014(**c**);

"year 2 review report" has the meaning given in regulation 11(1).

(2) Any reference in these Regulations to—

(a) a supply of electricity is a reference to its supply in Great Britain, and "supply" is to be construed in accordance with section 4(4) of the Electricity Act 1989, and

(b) electricity meters in respect of a manufacturing site is a reference to meters which measure electricity supplied to that manufacturing site.

(3) Any reference in these Regulations to an amount of electricity is a reference to that amount expressed in megawatt hours (MWh).

Meaning of "specified activity"

4.—(1) Specified activity means a SIC activity which results in the manufacture or production of an eligible product.

(2) For the purposes of paragraph (1)—

"BICS Eligibility List" means the document titled "Eligibility for the British Industrial Competitiveness Scheme (BICS)", version 3, dated 25 August 2026(**d**);

"commodity code" means a code set out in the table named "Goods Classification Table" in Annex I in Part Three of the document titled "the Tariff of the United Kingdom, version 1.31, dated 3rd March 2026"(**e**), as applicable to the goods as so classified;

"eligible product" means a product classified by a commodity code set out in the BICS Eligibility List which corresponds with the description of that class in that document;

"SIC activity" means an activity classified by a SIC code set out in the BICS Eligibility List which corresponds with the description of that class in that document;

"SIC code" means a code, at the level "class" defined by 4 digits, included in the UK Standard Industrial Classification of Economic Activities 2007(**f**).

(**a**) S.I. 2014/2043, amended by S.I. 2014/3354, 2015/875, 2015/1974, 2016/742, 2017/1053, 2019/530, 2019/862, 2019/1139, 2020/697, 2020/1470, 2021/901 and 2023/860.

(**b**) S.I. 2024/434.

(**c**) S.I. 2014/3354, amended by S.I. 2015/875, 2016/742, 2017/1053, 2022/401 and 2024/434; there are other amendments and modifications, but none is relevant.

(**d**) The document titled "Eligibility for the British Industrial Competitiveness Scheme (BICS)", version 3, dated 25 August 2026 is available electronically from https://www.gov.uk/government/publications/eligibility-for-the-british-industrial-competitiveness-scheme. Hard copies may be obtained from the Department for Business, Innovation, Science and Trade, Old Admiralty Building, Admiralty Place, London, SW1A 2DY.

(**e**) The document titled "The Tariff of the United Kingdom, version 1.31, dated 3rd March 2026" is available electronically from https://www.gov.uk/government/publications/reference-document-for-the-customs-tariff-establishment-eu-exit-regulations-2020. Hard copies are available to view free of charge at HMRC, 100 Parliament Street, London, SW1A 2BQ.

(**f**) (SIC 2997) published by the Office for National Statistics in December 2009 with ISBN number 978-0-230-21012-7. This is available electronically from https://www.ons.gov.uk/methodology/classificationsandstandards/ukstandardindustrialclassificationofeconomicactivities/uksic2007 and information on how to obtain a hard copy may be obtained by contacting the Office for National Statistics, Classification and Harmonisation Unit, Government Buildings, Cardiff Road, Newport, South Wales, NP10 8XG.

PART 2

BICS Excluded Electricity

BICS excluded electricity

5.—(1) The amount of electricity that corresponds to the relevant proportion of electricity which is measured by the meters in respect of a manufacturing site in relation to which a BICS determination is in force is BICS excluded electricity, where BICS relevant arrangements apply in relation to those meters.

(2) For the purposes of paragraph (1) the relevant proportion is the proportion of electricity calculated in accordance with regulation 8.

(3) For the purposes of this regulation, "BICS relevant arrangements" has the meaning given in regulation 4B of the Supplier Payment (Amendment and Excluded Electricity) Regulations.

BICS determinations

6.—(1) Subject to paragraph (3) and regulation 7(4), a person who uses electricity for a specified activity at a manufacturing site is entitled to a determination by the Secretary of State (a "BICS determination") that a proportion of the electricity measured by the electricity meters in respect of that manufacturing site is BICS excluded electricity, where—

(a) the person makes a BICS application, and

(b) paragraph (2) applies.

(2) This paragraph applies where—

(a) the person is a firm that appears in a register maintained under section 1080(1)(**a**) of the Companies Act 2006,

(b) the specified activity—

(i) is carried out in the course of the person's business, and

(ii) has been carried out in the course of the person's business for a continuous period that is at least 6 months in length in the 12 month period immediately prior to the making of the BICS application, and

(c) the amount of electricity measured by the electricity meters in respect of the manufacturing site is at least 33 megawatt hours per annum.

(3) A person may not receive a BICS determination in relation to any amount of electricity in respect of which an EII certificate is in force.

Applications for BICS determinations

7.—(1) An application for a BICS determination must be made to the Secretary of State in writing and must contain—

(a) the name of the individual submitting the BICS application on behalf of the BICS applicant, and an address and email address at which that individual can be contacted,

(b) evidence that the individual referred to in sub-paragraph (a) is authorised to submit the BICS application on behalf of the BICS applicant,

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(**a**) Section 1080(1) was amended by S.I. 2009/1802.

(c) the name, address and email address of the firm to which the BICS application relates, its registered number, and a statement as to whether that firm carries out activities in Northern Ireland,

(d) the address of the manufacturing site to which the BICS application relates and a statement as to whether or not it is shared with any other person and, if it is, the name of the person and, if available, an email address for the person,

(e) where a meter in respect of the manufacturing site—

(i) is registered in SMRS, the MSID that relates to that meter,

(ii) is registered in CMRS, the BM Unit Identification Number and MSID that relates to that meter,

(f) the address of each meter in respect of the manufacturing site,

(g) in the case of a private network boundary point meter, the name of the registered owner of the meter, being either a generator or an electricity supplier,

(h) a statement—

(i) confirming that all the electricity supplied to those meters is used in the course of business by the BICS applicant, or

(ii) identifying any person with whom that electricity is shared,

(i) where sub-paragraph (h)(ii) applies, evidence of the arrangements pursuant to which that electricity is shared,

(j) information identifying the electricity supplier who, when the BICS application is made, supplies the electricity which is measured by those meters and an address and email address for that supplier,

(k) the name of the person who pays the electricity supplier referred to in sub-paragraph (j) where that person is not the BICS applicant,

(l) where at the date of the BICS application the BICS applicant shares electricity supplied to the meters in respect of the manufacturing site or obtains electricity measured by those meters from a third party other than an electricity supplier—

(i) evidence of the amount of electricity measured by those meters which was supplied during the most recent six month period for which information is available in the 12 month period immediately prior to the making of the application, and

(ii) evidence of the proportion of the electricity measured by those meters that was used in the course of the BICS applicant's business during the most recent six month period for which information is available in the 12 month period immediately prior to the making of the application,

(m) where at the date of the BICS application the BICS applicant obtains electricity measured by those meters from a third party other than an electricity supplier, evidence of the amounts charged by that third party and paid by the BICS applicant in relation to—

(i) the renewables obligation, and

(ii) the FIT Scheme,

(n) evidence that the BICS applicant is responsible for paying for the electricity to which the BICS application relates,

(o) if applicable, a statement identifying any third party, other than an electricity supplier, from whom the BICS applicant obtains electricity containing the third party's address and, where available, email address,

(p) where sub-paragraph (o) applies, evidence of the arrangements pursuant to which the BICS applicant obtains electricity from a third party,

(q) evidence of the amount of electricity measured by the meters in respect of the manufacturing site which was supplied during the most recent six month period for which information is available in the 12 month period immediately prior to the making of the application,

(r) evidence of the specified activity for which electricity supplied to those meters is used in the course of business by the BICS applicant during the most recent six month period for which information is available in the 12 month period immediately prior to the making of the application,

(s) a statement setting out whether evidence is available of the proportion of electricity measured by the electricity meters in respect of a manufacturing site which is used for the specified activity,

(t) if the evidence in sub-paragraph (s) is available, such evidence for the most recent six month period for which information is available in the 12 month period immediately prior to the making of the application,

(u) a statement setting out the proportion, in accordance with regulation 8(2), (5), (6) or (7), as the case may be, of electricity measured by the electricity meters in respect of the manufacturing site which the BICS applicant reasonably considers should be BICS excluded electricity, and an explanation of why the BICS applicant reasonably considers it should be BICS excluded electricity,

(v) a statement setting out the—

(i) specified activities,

(ii) non-specified activities,

(iii) related activities, and

(iv) other activities,

which are carried out in the course of business by the BICS applicant at the manufacturing site to which the BICS application relates,

(w) a statement setting out whether the BICS applicant has an EII certificate,

(x) where at the date of the BICS application the BICS applicant has an EII certificate—

(i) evidence of that certificate,

(ii) evidence of the specified activity to which that certificate relates, and

(iii) a statement to the effect that the BICS application does not relate to any amount of electricity in respect of which the EII certificate is in force, and

(y) a declaration by the BICS applicant, made by an officer or agent duly authorised so to declare on behalf of the BICS applicant, that the information provided in the BICS application is correct and complete.

(2) For the purposes of paragraph (1)(c), "registered number" means the firm's registered number in the register referred to in regulation 6(2)(a) in which it is entered.

(3) An application must be made before the 1st December preceding the BICS year.

(4) The Secretary of State may decide not to grant a BICS determination in respect of a BICS application where, in the opinion of the Secretary of State—

(a) the information or evidence contained in that application pursuant to paragraph (1) is not sufficient or not satisfactory, or

(b) the granting of the BICS determination would be incompatible with the United Kingdom's international obligations in respect of subsidy control.

BICS determinations: relevant proportion of electricity

8.—(1) The relevant proportion of electricity in relation to a BICS determination is calculated in accordance with this regulation.

(2) If all the electricity supplied to the electricity meters in respect of a manufacturing site is used in the course of business by the BICS applicant and none of it is electricity in respect of which an EII certificate is in force, the proportion under paragraph (1) is—

(a) zero, if the relevant electricity is 25% or less of the total amount of electricity measured by those meters;

(b) 50%, if the relevant electricity is more than 25% but less than 50% of the total amount of electricity measured by those meters;

(c) 100%, if the relevant electricity is 50% or more of the total amount of electricity measured by those meters.

(3) In this regulation, "relevant electricity" means the sum of—

(a) the amount of electricity used for a specified activity in the course of the business of the BICS applicant, and

(b) the qualifying amount of electricity used for a related activity in the course of the business of the BICS applicant, calculated in accordance with paragraph (4),

but excluding any electricity in respect of which an EII certificate is in force.

(4) The qualifying amount of electricity used for a related activity is—

(a) zero, if 25% or less of the electricity used for the related activity is attributable to a specified activity;

(b) 50% of the total amount of electricity used for the related activity, if more than 25% but less than 50% of the electricity used for that activity is attributable to a specified activity;

(c) 100% of the total amount of electricity used for the related activity, if 50% or more of the electricity used for that activity is attributable to a specified activity.

(5) If all the electricity supplied to the electricity meters in respect of a manufacturing site is used in the course of business by the BICS applicant but some of it is electricity in respect of which an EII certificate is in force, the proportion under paragraph (1) is—

TIER x (100%-A)

where—

TIER is the proportion that would be specified under paragraph (1) in accordance with paragraph (2) if none of the electricity supplied to the electricity meters in respect of a manufacturing site was electricity in respect of which an EII certificate was in force, expressed as 0, 50 or 100, as the case may be, and

A is the proportion of electricity in respect of which an EII certificate is in force.

(6) If electricity measured by a meter in respect of a manufacturing site is shared with another person and none of the electricity used by the BICS applicant is electricity in respect of which an EII certificate is in force, the proportion to be specified under paragraph (1) is to be calculated in accordance with the formula—

TIER × PROP

where—

TIER is the proportion that would be specified under paragraph (1) in accordance with paragraph (2) if all the electricity supplied to the electricity

meters in respect of a manufacturing site was used in the course of business by the BICS applicant expressed as 0, 50 or 100, as the case may be, and

PROP is the proportion of electricity measured by the meter which is used by the BICS applicant, expressed as a percentage.

(7) If electricity measured by a meter in respect of a manufacturing site is shared with another person and some of the electricity used by the BICS applicant is electricity in respect of which an EII certificate is in force, the proportion to be specified under paragraph (1) is to be calculated in accordance with the formula—

TIER x (100%-A) x PROP

where—

TIER is the proportion that would be specified under paragraph (1) in accordance with paragraph (2) if all the electricity supplied to the electricity meters in respect of a manufacturing site was used in the course of business by the BICS applicant and none of it was electricity in respect of which an EII certificate was in force, expressed as 0, 50 or 100, as the case may be,

PROP is the proportion of electricity measured by the meter which is used by the BICS applicant, expressed as a percentage, and

A is the proportion of electricity in respect of which an EII certificate is in force.

(8) For the purposes of paragraphs (6) and (7), if—

(a) more than one person makes a BICS application in relation to the meter in respect of a manufacturing site that is shared with another person, and

(b) the evidence under regulation 7(1)(l)(ii) contained in the BICS applications taken together indicates that the sum of the proportion of the electricity measured by that meter that was used in the course of the BICS applicants' businesses exceeds 100%,

the proportion of electricity measured by that meter which is used by each BICS applicant is to be determined by the Secretary of State, by reference to the evidence provided under regulation 7(1)(l) and any further information as the Secretary of State may reasonably require, so that the sum of those proportions does not exceed 100%.

Notification of change in circumstance

9. Where any of the following occur ("change in circumstance"), the BICS applicant must, as soon as reasonably practicable, notify the Secretary of State in writing of the change in circumstance and provide updated or additional information in relation to it—

(a) there is a change to any of the following—

(i) the name, address or email address of the individual referred to in regulation 7(1)(a);

(ii) the name or address, including the email address, of the BICS applicant;

(iii) whether the firm carries out activities in Northern Ireland;

(iv) the structure or organisation of the firm carrying out the activity to which the BICS determination relates, including a change of ownership or control of the firm or a transfer of the firm's business, including the transfer of a significant portion of its assets or liabilities to another person;

(v) the electricity supplier who supplies electricity measured by the meters in respect of a manufacturing site to which the BICS determination relates;

(vi) any arrangements pursuant to which the BICS applicant obtains electricity from a third party other than an electricity supplier;

(vii) the manufacturing site to which the BICS determination relates, including—

(aa) a change of address,

(bb) the cessation or substantial modification of the activity on the site to which the determination relates,

(cc) a full or partial closure of the site, whether temporary or permanent, and

(dd) a change to the arrangements pursuant to which the manufacturing site is shared;

(viii) the metering arrangements at the manufacturing site to which the BICS determination relates, including—

(aa) the removal of a meter in respect of the manufacturing site, and

(bb) a change to the sharing of electricity supplied to the meters in respect of the manufacturing site which would result in a change to the proportion of electricity constituting BICS excluded electricity calculated under regulation 8;

(b) there is a reduction in the amount, level, intensity or frequency of any specified activity which is or was being carried out using electricity measured by the meters in respect of the manufacturing site to which the BICS determination relates, as a result of which the proportion of electricity measured by the meters to which the BICS determination relates which constitutes BICS excluded electricity is likely to be lower;

(c) there is an increase in the amount, level, intensity or frequency of a non-specified activity which is or was being carried out using electricity measured by the meters in respect of the manufacturing site to which the BICS determination relates, as a result of which the proportion of electricity measured by the meters to which the BICS determination relates which constitutes BICS excluded electricity is likely to be lower;

(d) the BICS applicant becomes aware of an error in relation to its BICS determination, in that the proportion of electricity measured by the meters in respect of the manufacturing site that constitutes BICS excluded electricity is incorrect;

(e) the BICS applicant becomes aware of an error in—

(i) a BICS application,

(ii) a notification under this regulation,

(iii) an annual declaration sent to the Secretary of State under regulation 10, or

(iv) a year 2 review report sent to the Secretary of State under regulation 11;

(f) the BICS applicant is issued with an EII certificate in respect of a meter to which the BICS determination relates;

(g) the BICS applicant becomes insolvent or enters into an insolvency procedure of any description.

Annual declaration

10.—(1) Where a BICS determination is in force on the 1st January in any year, the BICS applicant must send a declaration (the "annual declaration") in writing to the Secretary of State before the 1st February of that year.

(2) The annual declaration must be a declaration by the BICS applicant, made by an officer or agent duly authorised so to declare on behalf of the BICS applicant, and must, subject to paragraph (3), contain a statement that—

(a) there has been no change in circumstance under regulation 9, and

(b) the proportion of electricity measured by the meters to which the BICS determination relates that constitutes BICS excluded electricity remains correct.

(3) If the officer or agent making the declaration is unable to make the statement in paragraph (2), the officer or agent must make a statement—

(a) that there has been a change in circumstance under regulation 9,

(b) containing evidence of the change in circumstance,

(c) setting out whether the change in circumstance means that the proportion of electricity measured by the meters to which the BICS determination relates that constitutes BICS excluded electricity is incorrect, and

(d) where the change in circumstance means that the proportion is incorrect, setting out the proportion which, in their reasonable opinion, is correct, together with the calculations used to determine that proportion.

(4) The annual declaration must set out—

(a) whether a meter in respect of the manufacturing site has been installed since the date of the last annual declaration or, if no annual declaration has been made, the date of the BICS application,

(b) evidence of the meter, and

(c) whether there has been an increase in the amount, level, intensity or frequency of any specified activity which was carried out using electricity measured by the meters in respect of a manufacturing site to which a BICS determination relates.

(5) Where there has been an increase in the amount, level, intensity or frequency of any specified activity, the annual declaration must—

(a) contain evidence of the increase,

(b) set out whether that increase means that the proportion of electricity measured by the meters to which the BICS determination relates that constitutes BICS excluded electricity is incorrect, and

(c) where that increase means that the proportion is incorrect, set out the proportion which, in the reasonable opinion of the BICS applicant, is correct, together with the calculations used to determine that proportion.

Year 2 review report

11.—(1) The BICS applicant must send a report ("year 2 review report") in respect of the determination to the Secretary of State.

(2) The year 2 review report must be sent before the 1st December following the second anniversary of the day on which the BICS determination comes into force.

(3) It must be made in writing and must contain—

(a) the name of the individual sending the year 2 review report on behalf of the BICS applicant and an address and email address at which that individual can be contacted,

(b) evidence that the individual referred to in sub-paragraph (a) is duly authorised to send the year 2 review report on behalf of the BICS applicant,

(c) the name, address and email address of the firm to which the BICS determination relates, its registered number, and a statement as to whether that firm carries out activities in Northern Ireland,

(d) the address of the manufacturing site to which the BICS determination relates and a statement as to whether or not it is shared with any other person and, if it is, the name of the person and, if available, an email address for the person,

(e) where a meter in respect of a manufacturing site—

(i) is registered in SMRS, the MSID that relates to that meter,

(ii) is registered in CMRS, the BM Unit Identification Number and MSID that relates to that meter,

(f) the address of each meter in respect of the manufacturing site,

(g) in the case of a private network boundary point meter, the name of the registered owner, being either a generator or an electricity supplier,

(h) a statement—

(i) confirming that all the electricity supplied to those meters is used in the course of business by the BICS applicant, or

(ii) identifying any person with whom that electricity is shared,

(i) where sub-paragraph (h)(ii) applies, evidence of the arrangements pursuant to which that electricity is shared,

(j) information identifying the electricity supplier who, at the date of the year 2 review report, supplies electricity which is measured by those meters and an address and email address for that supplier,

(k) the name of the person who pays the electricity supplier referred to in sub-paragraph (j) where that person is not the BICS applicant,

(l) where at the date of the year 2 review report the BICS applicant shares electricity supplied to the meters in respect of the manufacturing site or obtains electricity measured by those meters from a third party other than an electricity supplier—

(i) evidence of the amount of electricity measured by those meters which was supplied during the most recent six month period for which information is available in the 12 month period immediately prior to the date of the year 2 review report, and

(ii) evidence of the proportion of the electricity measured by those meters that was used in the course of the BICS applicant's business during the most recent six month period for which information is available in the 12 month period immediately prior to the date of the year 2 review report,

(m) where at the date of the year 2 review report the BICS applicant obtains electricity measured by those meters from a third party other than an electricity supplier, evidence of the amounts charged by that third party and paid by the BICS applicant in relation to—

(i) the renewables obligation, and

(ii) the FIT Scheme,

(n) evidence that the BICS applicant is responsible for paying for the electricity to which the BICS determination relates,

(o) evidence of the amount of electricity measured by the meters in respect of the manufacturing site which was supplied during the most recent six month period for which information is available in the 12 month period immediately prior to the date of the year 2 review report,

(p) evidence of the specified activity for which electricity supplied to those meters is used in the course of business by the BICS applicant during the most recent six month period for which information is available in the 12 month period immediately prior to the date of the year 2 review report,

(q) a statement setting out whether evidence is available of the proportion of electricity measured by the electricity meters in respect of a manufacturing site which is used for the specified activity,

(r) if the evidence in sub-paragraph (q) is available, such evidence for the most recent six month period for which information is available in the 12 month period immediately prior to the date of the year 2 review report,

(s) a statement setting out the—

(i) specified activities,

(ii) non-specified activities,

(iii) related activities, and

(iv) other activities,

which are carried out in the course of business by the BICS applicant at the manufacturing site to which the BICS application relates,

(t) a statement setting out whether the BICS applicant has an EII certificate,

(u) where at the date of the year 2 review report the BICS applicant has an EII certificate—

(i) evidence of that certificate,

(ii) evidence of the specified activity to which that certificate relates, and

(iii) a statement setting out that the BICS determination does not relate to any amount of electricity in respect of which the EII certificate is in force,

(v) a statement setting out the proportion, in accordance with regulation 8, of electricity measured by the electricity meters in respect of the manufacturing site which the BICS applicant reasonably considers should be BICS excluded electricity, and an explanation of why the BICS applicant reasonably considers it should be BICS excluded electricity, and

(w) a declaration by the BICS applicant, made by an officer or agent duly authorised so to declare on behalf of the BICS applicant, that the information provided in the year 2 review report is correct and complete.

(4) For the purposes of paragraph (3)(c), "registered number" means the firm's registered number in the register referred to in regulation 6(2)(a) in which it is entered.

Validity, revocation and correction of BICS determinations

12.—(1) A BICS determination comes into force on the first day of the BICS year following the day on which the determination is made.

(2) Where a BICS determination is made the Secretary of State must give a notice to—

(a) the BICS applicant,

(b) the electricity supplier who supplies the electricity to which the BICS application relates,

(c) the Settlement Body, and

(d) the Authority.

(3) A BICS determination made by the Secretary of State is valid from the day on which it comes into force until the fifth anniversary of that day, unless it is revoked by the Secretary of State under paragraph (5).

(4) The BICS applicant must—

(a) retain a copy of the information, statements and evidence supplied to the Secretary of State under regulation 7(1) for 6 years from the date of the BICS application, and

(b) provide the Secretary of State with any such information, statements and evidence on request.

(5) A BICS determination may be revoked where the Secretary of State is satisfied that—

(a) the BICS applicant—

(i) is not entitled to it because regulation 6(2) does not apply, or

(ii) has failed to comply with any of the requirements in regulations 9 to 11,

(b) any evidence or information included in a notification, declaration or report under regulations 9 to 11 is not sufficient or not satisfactory,

(c) specified activity which was carried out using electricity measured by the meters in respect of a manufacturing site to which the BICS determination relates has ceased to be carried out,

(d) the manufacture, production or processing of products or substances has ceased at the manufacturing site to which the BICS determination relates,

(e) the BICS applicant made false or misleading representations or provided false documents or information in connection with the BICS application,

(f) the BICS applicant has committed an offence involving fraud or dishonesty, including under the Fraud Act 2006(**a**) or the Economic Crime and Corporate Transparency Act 2023(**b**),

(g) maintaining the BICS determination would be incompatible with the United Kingdom's international obligations in respect of subsidy control, or

(h) the BICS applicant would be entitled to an EII certificate in respect of the electricity to which the BICS determination relates were it not for the BICS determination.

(6) Where a BICS determination is revoked the Secretary of State must, as soon as reasonably practicable, give a notice in writing of such revocation to the persons in paragraph (2).

(7) A notice under paragraph (6) must specify the date on which the revocation has effect.

(8) Where at any time after making a BICS determination the Secretary of State is satisfied that the proportion of electricity constituting BICS excluded electricity to which the BICS determination relates is incorrect, the Secretary of State must, as soon as reasonably practicable, give a notice specifying the correct proportion to the persons in paragraph (2).

(9) Where a notice under paragraph (8) increases the proportion of electricity constituting BICS excluded electricity, the correction to the BICS determination takes effect from the first day of the next BICS year.

(10) Where a notice under paragraph (8) reduces the proportion of electricity constituting BICS excluded electricity, the correction to the BICS determination takes effect from the date specified in the notice.

Information sharing

13. The Settlement Body may share information with the Authority for the purpose of facilitating the performance of the Authority's functions under—

(a) the Feed-in Tariffs Order 2012(**c**),

(b) the 2015 Order, or

(c) the Renewables Obligation (Scotland) Order 2009(**d**).

(**a**) 2006 c. 35.
(**b**) 2023 c. 56.
(**c**) S.I. 2012/2782; amended by section 28 of the Utilities Act 2000 (c. 27) and section 135 of the Energy Act 2004 (c. 20) and S.I. 2013/1099, 2014/1601 2015/35, 2015/1659, 2015/2045, 2016/319, 2017/131, 2018/1092, 2018/1380, 2020/375, 2020/957, 2026/2 and 2023/127 and S.S.I. 2015/165.
(**d**) S.S.I. 2009/140; amended by S.S.I. 2009/276, 2010/147, 2011/225, 2011/226, 2013/116, 2014/94, 2015/188, 2015/384, 2017/432, 2018/352, 2023/103, 2024/98 and 2026/160 and S.I. 2016/1108, 2017/524, 2017/1234, 2019/35 and 2024/706.

PART 3

Amendment of the Supplier Payment Regulations

Amendment of the Supplier Payment Regulations

14. The Supplier Payment Regulations are amended in accordance with regulations 15 to 19.

Amendment of regulation 2 (interpretation)

15. In regulation 2(1) (interpretation)—

(a) in the appropriate places insert the following definitions—

""BICS determination" has the meaning given in regulation 3(1) of the Renewables Obligation and Electricity Capacity (Amendment) (British Industrial Competitiveness Scheme Excluded Electricity) Regulations 2026;

"CM BICS excluded electricity" means any amount of electricity determined to be such in accordance with regulation 4A of the Electricity Capacity (Supplier Payment etc.) (Amendment and Excluded Electricity) Regulations 2024(**a**);";

(b) for the definition of "settlement costs" substitute—

""settlement costs" means any costs incurred by the Settlement Body in connection with the performance of any function conferred on it by or by virtue of Chapter 3 of Part 2 of the Act;".

Amendment of regulation 4 (forecast of relevant demand and CM EII excluded electricity)

16. In regulation 4 (forecast of relevant demand and CM EII excluded electricity)—

(a) for the heading, substitute "Forecast of relevant demand, CM EII excluded electricity and CM BICS excluded electricity";

(b) in paragraph (2)—

(i) at the end of sub-paragraph (aa), omit "and";

(ii) after sub-paragraph (aa), insert—

"(ab) forecast the amount of CM BICS excluded electricity that it will supply through electricity meters in respect of manufacturing sites in relation to which a BICS determination is in force during periods of high demand in year X; and";

(c) after paragraph (2), insert—

"(3) For the purposes of this regulation—

(a) a reference to electricity meters in respect of a manufacturing site is a reference to meters which measure electricity supplied to that manufacturing site;

(b) "manufacturing site" has the meaning given in regulation 3(1) of the Renewables Obligation and Electricity Capacity (Amendment) (British Industrial Competitiveness Scheme Excluded Electricity) Regulations 2026.".

(**a**) S.I. 2024/434.

Amendment of regulation 6 (capacity market supplier charge)

17. In regulation 6 (capacity market supplier charge), in paragraph (3)—

(a) at the end of sub-paragraph (a), omit "and";

(b) at the end of sub-paragraph (b), insert "and";

(c) after sub-paragraph (b) insert—

"(c) CM BICS excluded electricity,".

Amendment of regulation 19 (recalculation of payments: general)

18. In regulation 19 (recalculation of payments: general)—

(a) the existing text becomes paragraph (1);

(b) after paragraph (1)(aa) insert—

"(ab) make use of any revised or additional data provided to the Settlement Body pursuant to the BICS relevant arrangements in respect of CM BICS excluded electricity, in place of the data previously used or estimates made to make a calculation or determination;";

(c) after paragraph (1) insert—

"(2) For the purposes of this regulation, "BICS relevant arrangements" has the meaning given in regulation 4B of the Electricity Capacity (Supplier Payment etc.) (Amendment and Excluded Electricity) Regulations 2024.".

Amendment of Schedule 1 (calculation of amounts)

19. In Schedule 1 (calculation of amounts)—

(a) in paragraph 2(5), for the definition of "$FSSPD_{sx}$" substitute—

""$FSSPD_{sx}$" means A - (B + C) where—

A is the amount of the relevant demand forecast by S for year X under regulation 4(2)(a) and given to the Settlement Body under regulation 4(2)(b);

B is the CM EII excluded electricity forecast by S for year X under regulation 4(2)(aa) and given to the Settlement Body under regulation 4(2)(b);

C is the CM BICS excluded electricity forecast by S for year X under regulation 4(2)(ab) and given to the Settlement Body under regulation 4(2)(b).";

(b) in paragraph 3—

(i) in sub-paragraph (1), for "relevant demand and CM EII excluded electricity" substitute "relevant demand, CM EII excluded electricity and CM BICS excluded electricity";

(ii) in sub-paragraph (5), in the definition of "$ASSPD_{sx}$", after "CM EII excluded electricity" insert "and CM BICS excluded electricity";

(c) in paragraph 7(4), in the definition of "$ASSPD_{sy}$", after "CM EII excluded electricity" insert "and CM BICS excluded electricity";

(d) in paragraph 8(4)—

(i) in the definition of "$ASSPD_{sy}$", after "CM EII excluded electricity" insert "and CM BICS excluded electricity";

(ii) in the definition of "$\sum$1ASSPD$_{sy}$", after "CM EII excluded electricity" insert "and CM BICS excluded electricity".

PART 4

Amendment of the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015

Amendment of the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015

20. The Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015 are amended in accordance with regulations 21 to 23.

Amendment of regulation 2 (interpretation)

21. In regulation 2(1) (interpretation), after the definition of "the Balancing and Settlement Code" insert—

> ""BICS determination" has the meaning given in regulation 3(1) of the Renewables Obligation and Electricity Capacity (Amendment) (British Industrial Competitiveness Scheme Excluded Electricity) Regulations 2026;".

Amendment of regulation 8 (EII certificates)

22. In regulation 8 (EII certificates)—

(a) in paragraph (1), for "Subject to regulation 10(7)" substitute "Subject to paragraph (11) and regulation 10(7)";

(b) after paragraph (10) insert—

"(11) A person is not entitled to be issued with an EII certificate in relation to any amount of electricity in respect of which a BICS determination is in force.".

Amendment of regulation 10 (applications for EII certificates)

23. In regulation 10 (applications for EII certificates), in paragraph (2)—

(a) at the end of sub-paragraph (o), omit "and";

(b) after sub-paragraph (p), insert—

"(q) a statement setting out whether the person applying for the EII certificate has a BICS determination; and

(r) where at the date of the EII application the person making the application has a BICS determination—

(i) evidence of that determination,

(ii) evidence of the activity to which that determination relates, and

(iii) a statement setting out that the EII application does not relate to any amount of electricity in respect of which the BICS determination is in force.".

PART 5

Amendment of the Renewables Obligation Order 2015

Amendment of the Renewables Obligation Order 2015

24. The 2015 Order is amended in accordance with regulations 25 to 29.

Amendment of article 2 (interpretation)

25. In article 2(1) (interpretation), after the definition of "animal excreta" insert—

> ""BICS excluded electricity" has the meaning given in regulation 3(1) of the Renewables Obligation and Electricity Capacity (Amendment) (British Industrial Competitiveness Scheme Excluded Electricity) Regulations 2026;".

Amendment of article 7 (the renewables obligation)

26.—(1) Article 7 (the renewables obligation) is amended as follows.

(2) In paragraph (2), for "13C" substitute "13E".

(3) In paragraph (5)—

(a) in sub-paragraph (a)(i), after "1st April 2019" insert "and ending on or before 31st March 2027";

(b) at the end of sub-paragraph (a), omit "and";

(c) after sub-paragraph (a), insert—

"(aa) in respect of—

(i) any obligation period beginning on or after 1st April 2027; or

(ii) any month of an obligation period in respect of which a revised obligation level applies in accordance with article 13E,

any electricity supplied to customers in England and Wales other than EII excluded electricity and BICS excluded electricity; and".

Amendment of article 13A (determining the number of UK ROCs: obligation periods beginning on or after 1st April 2019)

27. In article 13A (determining the number of UK ROCs), in—

(a) the heading, after "1st April 2019" insert "and ending on or before 31st March 2027";

(b) paragraph (1), after "1st April 2019" insert "and ending on or before 31st March 2027".

New articles 13D and 13E (EII excluded electricity and BICS excluded electricity)

28. After article 13C (revision of the obligation level in respect of the 2024/25 obligation period), insert—

"Determining the number of UK ROCs to be produced by a designated electricity supplier in order to discharge its renewables obligation: obligation periods beginning on or after 1st April 2027

13D.—(1) This article applies in respect of an obligation period beginning on or after 1st April 2027.

(2) Before the start of an obligation period to which this article applies, the Secretary of State must estimate, in megawatt hours—

(a) the total amount of EII excluded electricity, and

(b) the total amount of BICS excluded electricity,

likely to be supplied to customers in Great Britain during that period by—

(i) designated electricity suppliers, and

(ii) electricity suppliers on whom the renewables obligation has been imposed by an order made under sections 32 to 32M of the Act by the Scottish Ministers.

(3) Subject to article 13E, where the total obligation for the obligation period is calculation A, the number of UK ROCs that a designated electricity supplier is required to produce in order to discharge its renewables obligation is, for each megawatt hour of relevant electricity that it supplies during that period, equal to—

$$\frac{0.154\,xC}{C-(D+F)}$$

(4) Subject to article 13E, where the total obligation for the obligation period is calculation B, the number of UK ROCs that a designated electricity supplier is required to produce in order to discharge its renewables obligation is, for each megawatt hour of relevant electricity that it supplies during that period, equal to—

$$\frac{ExC}{C-(D+F)}$$

(5) For the purposes of paragraphs (3) and (4)—

(a) C is the estimate made by the Secretary of State under article 8(1) of the total amount of electricity likely to be supplied to customers in Great Britain during the obligation period;

(b) D is the estimate made by the Secretary of State under paragraph (2)(a) of the total amount of EII excluded electricity likely to be supplied to customers in Great Britain during the obligation period;

(c) E is equal to—

$$\frac{Calculation\ B\ for\ the\ obligation\ period \times 0.154}{Calculation\ A\ for\ the\ obligation\ period}$$

(d) F is the estimate made by the Secretary of State under paragraph (2)(b) of the total amount of BICS excluded electricity likely to be supplied to customers in Great Britain during the obligation period.

(6) The Secretary of State must publish, by the 1st October preceding the obligation period, the number of UK ROCs that a designated electricity supplier is required to produce

in respect of each megawatt hour of relevant electricity that it supplies during that period in order to discharge its renewables obligation for that period.

Revision of the obligation level published on or before 1st October 2026 in respect of the 2027/28 obligation period

13E.—(1) The Secretary of State may revise the obligation level published on or before 1st October 2026 in respect of the 2027/28 obligation period.

(2) The power conferred by paragraph (1) may only be exercised once and may not be exercised after 31st March 2027.

(3) Before exercising the power conferred by paragraph (1), the Secretary of State must estimate, in megawatt hours, both—

(a) the total amount of EII excluded electricity, and

(b) the total amount of BICS excluded electricity,

likely to be supplied to customers in Great Britain during the 2027/28 obligation period by—

(i) designated electricity suppliers, and

(ii) electricity suppliers on whom the renewables obligation has been imposed by an order made under sections 32 to 32M of the Act by the Scottish Ministers.

(4) A revision of the obligation level for the 2027/28 obligation period is to be calculated as follows—

(a) where the total obligation for the 2027/28 obligation period is calculation A, revision of that obligation level is to be calculated in accordance with article 13D(3);

(b) where the total obligation for the 2027/28 obligation period is calculation B, revision of that obligation level is to be calculated in accordance with article 13D(4).

(5) Where, in exercise of the power conferred by paragraph (1), the Secretary of State revises the obligation level in respect of the 2027/28 obligation period, the Secretary of State must publish the revised obligation level within the period of seven days beginning with the day on which that power is exercised.

(6) In exercising the power conferred by paragraph (1), the Secretary of State may provide that the obligation level published on or before 1st October 2026 applies for part of the 2027/28 obligation period and the revised obligation level as calculated in accordance with paragraph (4) applies for the remainder of the 2027/28 obligation period.

(7) In this article—

"2027/28 obligation period" means the obligation period beginning on 1st April 2027;

"obligation level" means the number of UK ROCs that a designated electricity supplier is required to produce in respect of each megawatt hour of relevant electricity that it supplies to customers in England and Wales during an obligation period in order to discharge its renewables obligation for that period as determined under article 13D(3) or (4).".

Amendment of article 79 (provision of information)

29. In article 79 (provision of information)—

(a) at the end of paragraph (2)(bb), omit "and";

(b) after paragraph (2)(bb), insert—

"(bc) estimates of the amount of BICS excluded electricity it has supplied to customers in England and Wales during each month—

(i) of an obligation period beginning on or after 1st April 2027; or

(ii) in respect of which a revised obligation level applies in accordance with article 13E(5),

by no later than the 1st June following that period;

(bd) figures showing the actual amount of BICS excluded electricity it has actually supplied to customers in England and Wales during each month—

(i) of an obligation period beginning on or after 1st April 2027; or

(ii) in respect of which a revised obligation level applies in accordance with article 13E(5),

by no later than the 1st July following that period; and".

PART 6

Amendment of the Supplier Payment (Amendment and Excluded Electricity) Regulations

Amendment of the Supplier Payment (Amendment and Excluded Electricity) Regulations

30. The Supplier Payment (Amendment and Excluded Electricity) Regulations are amended in accordance with regulations 31 and 32.

Amendment of regulation 2 (interpretation)

31. In regulation 2 (interpretation)—

(a) in paragraph (1), in the appropriate places insert the following definitions—

""BICS determination" has the meaning given in regulation 3(1) of the BICS Regulations;

"BICS Regulations" means the Renewables Obligation and Electricity Capacity (Amendment) (British Industrial Competitiveness Scheme Excluded Electricity) Regulations 2026;

"BICS relevant arrangements" has the meaning given in regulation 4B;

"CM BICS excluded electricity" means any amount of electricity determined as such in accordance with regulation 4A;

"manufacturing site" has the meaning given in regulation 3(1) of the BICS Regulations;".

(b) after paragraph (2), insert—

"(3) Any reference in these Regulations to electricity meters in respect of a manufacturing site is a reference to meters which measure electricity supplied to that manufacturing site.".

Amendment of Part 2 (CM EII excluded electricity)

32. In Part 2 (CM EII excluded electricity)—

(a) for the Part heading, substitute—

"PART 2

CM EII Excluded Electricity and CM BICS Excluded Electricity";

(b) after regulation 4, insert—

"Determination of CM BICS excluded electricity

4A.—(1) The amount of electricity that corresponds to the relevant proportion of electricity which is measured by the meters in respect of a manufacturing site in relation to which a BICS determination is in force is CM BICS excluded electricity, where BICS relevant arrangements apply in relation to those meters.

(2) For the purposes of paragraph (1) the relevant proportion is the proportion of electricity calculated in accordance with regulation 8 of the BICS Regulations.

(3) Where the Settlement Body makes a determination under the Supplier Payment Regulations which requires the determination or calculation of the amount of electricity supplied which is CM BICS excluded electricity, it must, where possible, base that determination or calculation on information derived from the BSC volume allocation run carried out by the BSCCo most recently before the day on which the electricity was supplied.

BICS relevant arrangements

4B.—(1) "BICS relevant arrangements" means arrangements which are approved by the Settlement Body under paragraph (2) or (3)(a), to enable the provision of information to the Settlement Body about the amount of electricity measured by meters in respect of manufacturing sites in relation to which BICS determinations are in force.

(2) The Settlement Body must, within 30 days of the date on which this regulation comes into force, approve arrangements which it considers will enable the provision of information about the amount of electricity measured by meters in respect of manufacturing sites in relation to which BICS determinations are in force.

(3) The Settlement Body must keep the BICS relevant arrangements under review and may—

(a) approve alternative BICS relevant arrangements, or

(b) withdraw approval for BICS relevant arrangements provided that—

(i) it has given six months' notice or more of the withdrawal of approval to electricity suppliers, and

(ii) it has ensured that, after the withdrawal of approval of those arrangements, there are BICS relevant arrangements which are approved.

(4) The Settlement Body may not approve arrangements as BICS relevant arrangements unless it is satisfied that every electricity supplier is able to participate in such arrangements.

(5) Where the Settlement Body approves BICS relevant arrangements it must publish, in such manner as it considers appropriate for the purpose of bringing it to the attention of electricity suppliers, a document which describes those arrangements.";

(c) in regulation 5(6) (information sharing), after "relevant arrangements", insert "or the BICS relevant arrangements".

Name
Title
Department for Business, Innovation, Science and Trade

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in sections 32, 32A, 32J and 32K of the Electricity Act 1989 (c. 29) and sections 27, 28, 30, 32, 33 and 40 of the Energy Act 2013 (c. 32). They make provision about BICS excluded electricity, which is a proportion of electricity measured by meters in respect of a manufacturing site which is used to carry out certain manufacturing activities (defined as "specified activity" in these Regulations). BICS excluded electricity is then excluded from the calculations of a supplier's liability under the Renewables Obligation Order 2015 (S.I. 2015/1947), the Electricity Capacity (Supplier Payment etc.) Regulations 2014 (S.I. 2014/3354) and the Electricity Capacity (Supplier Payment etc.) (Amendment and Excluded Electricity) Regulations 2024 (S.I. 2024/434).

Part 1 contains introductory provisions and includes a definition of "specified activity".

Part 2 makes provision about BICS excluded electricity. Regulation 5 makes provision about how BICS excluded electricity is to be determined. Regulation 6 sets out the requirements that a person must meet for a BICS determination to be made by the Secretary of State. Regulation 7 sets out the requirements that must be met in an application for a BICS determination. Amongst other things, the application must be made by a person who uses electricity for a specified activity in the course of business. Regulation 8 makes provision about the proportion of electricity measured by meters in respect of a manufacturing site that will be excluded.

Regulation 9 requires a person in relation to whom a BICS determination has been made to notify the Secretary of State of particular matters if they arise. These include where any specified activity has ceased to be carried out, or where the person becomes aware of an error in a successful BICS application which means they were not entitled to have a BICS determination made. Regulations 10 and 11 contain a requirement for the person to provide, respectively, an annual declaration and a report to the Secretary of State and set out the information that they should contain. Regulation 12 makes provision about the validity and revocation of BICS determinations. Regulation 13 makes provision about the sharing of information by the Settlement Body (currently the Electricity Settlements Company, a private limited company owned by the Secretary of State for Energy Security and Net Zero) with the Authority (the Gas and Electricity Markets Authority, also known as Ofgem).

Part 3 contains amendments to the Electricity Capacity (Supplier Payment etc.) Regulations 2014. Regulation 15 amends those Regulations to include a definition of "BICS determination" and "CM BICS excluded electricity" so that this proportion of electricity can then be excluded from a supplier's liability under the Regulations. "CM BICS excluded electricity" is the terminology used for "BICS excluded electricity" in the context of these Regulations. Regulation 16 amends the requirement for a supplier to provide certain forecasts to the Settlement Body to include a forecast of CM BICS excluded electricity that it will supply. Regulation 17 amends one of the charges payable by the supplier to take into account that forecast of BICS excluded electricity. Regulation 18 amends the provision about recalculation of payments so that revised or additional data in relation to CM BICS excluded electricity is used instead of data used previously or estimates. Regulation 19 amends the formula used to calculate suppliers' liabilities to take account of the exclusion of CM BICS excluded electricity.

Part 4 contains amendments to the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015 (S.I. 2015/721). Regulation 21 amends those Regulations to include

a definition of "BICS determination" and regulation 22 provides that a person cannot receive an EII certificate in relation to any amount of electricity in respect of which a BICS determination is in force. Regulation 23 amends the requirements relating to an application for an EII certificate so that an applicant must state whether they have a BICS determination and provide evidence of it if applicable.

Part 5 contains amendments to the Renewables Obligation Order 2015 ("the Order"). Regulation 25 amends that Order to include a definition of "BICS excluded electricity", so that this proportion of electricity can then be excluded from a supplier's liability under the Order. Regulation 26 amends the renewables obligation to exclude BICS excluded electricity. Regulation 27 contains an amendment which is consequential on the amendment in regulation 28 which amends the formula used to calculate suppliers' liabilities to take account of the exclusion of BICS excluded electricity. It also makes provision for the determination of suppliers' obligations for periods beginning on or after 1st April 2027 and for that determination to be revised, but only once and before 1st April 2027. Regulation 29 amends the requirements for suppliers to provide the Authority with information in connection with its obligations under the Order to include information in relation to BICS excluded electricity.

Part 6 contains amendments to the Electricity Capacity (Supplier Payment etc.) (Amendment and Excluded Electricity) Regulations 2024. Regulation 31 amends those Regulations to include definitions relating to CM BICS excluded electricity so that this proportion of electricity can then be excluded from a supplier's liability under the Regulations. Regulation 32 amends Part 2 of the Regulations to set out how CM BICS excluded electricity is to be determined and make provision for the Settlement Body to share information, including with the Secretary of State and the Authority.

A full impact assessment of the effect that this instrument will have on the costs of business, voluntary bodies and community bodies is available alongside this instrument on https://www.legislation.gov.uk and from the Department for Business, Innovation, Science and Trade, Old Admiralty Building, Admiralty Place, London, SW1A 2DY.

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