



Department for
Business, Energy
& Industrial Strategy

CONTRACTS FOR DIFFERENCE SCHEME FOR RENEWABLE ELECTRICITY GENERATION

Government response to consultation on
proposed amendments to the scheme

Part A

June 2018

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Contents

Introduction	3
Purpose of this document	3
Overview of the proposed changes to regulations	4
Overview of responses to the consultation	4
Wind on remote islands	5
Responses received to the consultation	5
General views on the proposed approach	5
Comments on the relative competitiveness of RIW	6
Minima and maxima in 'Pot 2' allocation rounds	7
Views on timescales and implementation	8
Proposed definition of remote island wind	9
Evidence requirements at the point of application	12
Next steps	12
Combined Heat and Power	13
Responses received to the consultation	13
Increasing the minimum overall efficiency for new projects	13
Extending the new efficiency requirement to smaller schemes	14
Increasing the minimum heat efficiency	15
Removing a legislative reference to the CHPQA Standard	15
Next steps	16
Amending the definition of 'waste'	17
Responses received to the consultation	17
Proposal to amend the definition of 'waste'	17
Next steps	18

Introduction

1. Achieving clean growth, while ensuring an affordable energy supply for businesses and consumers, is at the heart of the UK's Industrial Strategy. As set out in the Clean Growth Strategy, that means nurturing low-carbon technologies, processes and systems that protect our businesses and households from high energy costs, and securing an industrial and economic advantage from the global transition to a low-carbon economy.
2. The UK has made substantial progress in building a successful renewables industry as part of our move to a low-carbon economy and to support meeting our carbon reduction and renewable energy targets. In 2016, businesses active in the low carbon and renewable energy economy generated £42.6 billion in turnover and employed an estimated 208,000 full-time equivalent employees. Installed capacity of renewable electricity generation has more than quadrupled since the end of 2010 from 9.3GW to 38.9GW at the end of 2017. Alongside the Renewables Obligation and the small-scale Feed-In Tariffs (FIT) scheme, the Contracts for Difference (CfD) scheme is playing a significant part in this effort. Our Industrial Strategy sets out how government will ensure that the UK continues to benefit from the transition to a low-carbon economy.
3. A CfD is a private law contract between a low carbon electricity generator and the Low Carbon Contracts Company, a Government-owned company. A generator party to a CfD is paid the difference between the 'strike price' – a price for electricity reflecting the cost of investing in a particular low carbon technology – and the 'reference price' – a measure of average GB market price for electricity. CfDs incentivise investment by giving greater certainty and stability of revenues to electricity generators by reducing their exposure to volatile wholesale prices, whilst protecting consumers from paying for higher support costs when electricity prices are high.
4. The CfD scheme is currently supporting 42 projects across a range of technologies, providing nearly 10GW of new renewable electricity capacity. In the Clean Growth Strategy the government confirmed that up to £557 million would be available for further Contracts for Difference, with the next auction planned for spring 2019.

Purpose of this document

This is the **Part A of the government response** to a consultation published in December 2017 on the Contracts for Difference (CfD) scheme, which supports new low carbon electricity generation projects and operates in England, Scotland and Wales. It deals mainly with proposals that would require amendments to regulations – namely:

- The treatment of onshore wind on remote islands
- The requirements applied to new combined heat and power projects
- A change to the definition of waste used in the CfD scheme

We expect this document will be of particular interest to stakeholders with an interest in the renewable energy sector or in developments on remote islands, and current and prospective developers of renewable electricity generation projects.

A further **Part B to the government response**, which deals with the wider range of proposals in the consultation, will be published later in the year.

The government also intends to consult on the proposed contractual amendments that some of these proposed changes require, as well as additional detailed contract changes to ensure that the contract terms remain effective, later in the year.

Overview of the proposed changes to regulations

5. In December 2017 the government launched a public consultation seeking views on a range of proposed changes to the CfD scheme, in order to enable it to continue to support new generation and provide best value for bill payers in coming years¹. This was primarily a written consultation, although public events were also held in England, Scotland and Wales during the consultation period to explain the changes being proposed and allow informal discussions.
6. The December consultation included proposals to amend two sets of regulations that underpin the operation of the CfD scheme:
 - The Contracts for Difference (Definition of Eligible Generator) Regulations 2014
 - The Contracts for Difference (Allocation) Regulations 2014

Overview of responses to the consultation

7. The consultation attracted around 1,500 written responses. Eighty-nine were individual replies from a range of stakeholders, including renewable electricity developers, trade associations, local authorities and members of the public.
8. The remainder were similar responses, arguing that CfD support should not be offered for electricity generated from burning or gasifying biomass and waste, while also supporting the introduction of higher efficiency standards proposed for new CHP stations supported under the CfD scheme.

¹ The consultation can be found at:
www.gov.uk/government/consultations/contracts-for-difference-cfd-proposed-amendments-to-the-scheme

Wind on remote islands

In the consultation that was published in December 2017, the government proposed to define wind projects on remote islands as *Remote Island Wind* (RIW), a separate technology from mainland onshore wind, to set a separate administrative strike price for RIW, and to allow it to compete in future 'Pot 2' allocation rounds ('Pot 2' being the auction for "less established" renewable technologies).

In parallel, State aid approval to allow RIW to compete with "less established" renewable energy technologies was received in January 2018.²

The December consultation had a wider focus than the legislative definition. It also sought views on how RIW projects awarded a CfD would benefit local communities. This first response is focussed only on the legislative aspects of the proposals and does not address the feedback received on this wider point (which will be covered in the more substantive response later in the year).

Responses received to the consultation

9. Forty five responses to the December 2017 consultation addressed the questions on RIW, including responses from local councils, community and environmental groups, developers, trade associations, suppliers and members of the public.

General views on the proposed approach

10. **Question 1** sought views on whether the proposed approach – namely, to allow RIW projects to compete for support with "less established" renewable technologies in future 'Pot 2' allocation rounds – is an effective means of supporting onshore wind on remote islands.
11. The proposal was broadly welcomed, with support for treating wind projects on the remote islands differently to other onshore wind projects under the CfD scheme. Some respondents noted that RIW projects have the potential to deliver economic and industrial benefits to the host island communities, particularly those that will share ownership of the developments. Some respondents suggested that the minimum size of RIW project eligible to apply for a CfD could be removed, or set lower than 5MW.
12. Other reasons advanced by respondents who broadly supported the proposals included the role that these projects can play as part of a diverse low carbon electricity mix (on the grounds that times of high wind on remote islands do not necessarily correlate with those on the mainland, potentially smoothing overall variability in generation); the improvements to the islands' security of supply that new transmission links would bring; potential benefits for the supply chain; and knock-on benefits for other innovative technologies such as wave and tidal stream.

² The State aid decision is available by searching for case SA.49318 at <http://ec.europa.eu/competition/elojade/isef/>

13. Some respondents noted that wind projects proposed on remote islands were not universally popular, particularly because of their scale. Others argued that government should give due consideration to the potential impacts of incentivising large-scale development in ecologically sensitive areas, and that the planning system would not necessarily ensure that environmental impacts are addressed; the risks of the loss of biodiversity and ecosystem services could be avoided or mitigated through the CfD allocation mechanism.
14. Some respondents argued that more limited support for onshore wind in other areas could increase pressure for further development in ecologically sensitive areas on remote islands, while others argued RIW projects could deliver various positive environmental benefits such as habitat management and the conservation of priority species.
15. Some respondents noted that RIW projects could bring enhanced transmission infrastructure – and hence security of supply – for islands such as Shetland, that might otherwise have to be built at significant cost to consumers. They also suggested that the CfD scheme could potentially be combined with other means of funding the development of transmission infrastructure in such remote locations, and that such approaches might be more cost effective than the CfD scheme alone.

Policy response: In view of the responses received, the government intends to proceed to legislate to differentiate Remote Island Wind from other onshore wind projects to enable them to compete for a CfD in Pot 2.

While it recognises the potential environmental sensitivities associated with any new energy generation development, the government believes that the planning and licensing systems are the correct place to address such issues.

The government does not intend to extend the scope of RIW to encompass projects smaller than 5MW. The CfD scheme currently supports onshore wind projects of 5MW and above, and makes them more attractive to capital investment by reducing the risk associated with future income; the lower scale of capital investment for projects under 5MW means the value of CfD support would be more limited. The cost and complexity of administering CfD contracts for very small RIW projects could also be disproportionate.

The government recognises that enhanced transmission infrastructure is a potential benefit that could flow from the deployment of RIW. However, combining support for new generation and for transmission investment within a single scheme risks significantly adding to the complexity of the scheme, and could provide scope for undesirable competitive distortions.

Comments on the relative competitiveness of RIW

16. Many respondents argued that if allowing RIW projects to compete for CfDs in Pot 2 does not lead to projects being delivered, the government should pursue alternative means to deliver the manifesto commitment.
17. They argued that RIW, which would not be competitive in Pot 1 (the group of “established” renewable technologies), had also become progressively less competitive against other “less established” technologies in Pot 2, to the point where many now questioned the ability of RIW to win a CfD.

18. There was concern regarding the relative competitiveness of RIW and offshore wind, in the light of recent reductions in the cost of the latter technology. Respondents argued that although the two have similar load factors, RIW faced higher costs than offshore wind due to the location of the main island groups and the infrastructure required to connect them to the mainland.
19. Other factors advanced that could affect RIW more than some other Pot 2 technologies included that they would not be provided with an availability guarantee for their power export (whereas offshore wind projects could be provided with one by the offshore transmission owner), and that RIW projects would pay higher business rates, landowner payments and payments to support local infrastructure and communities.
20. Respondents proposed ways to improve the competitiveness of RIW, including using specific powers in Section 185 of the Energy Act 2004 to locally limit transmission charges, allowing projects to pay transmission charges from the point of commissioning rather than the start of the financial year in which they connect to the transmission network, making other, more general changes to the transmission charging regime, or finding an alternative means of funding new transmission links to remote island groups.
21. Some respondents noted that developers of RIW projects had little visibility of, or direct control over, the actual costs of any new transmission links to remote island groups – but that minimising these costs could improve the relative competitiveness of remote island wind. Ofgem regulates the delivery of new large onshore transmission projects through the *Strategic Wider Works* mechanism. The suggestion was made that introducing competition or a “competition proxy” approach could be helpful in driving efficiencies and minimising the cost of capital. It was, however, also acknowledged that competition might disrupt the timeline for delivering relatively complex new transmission links whose preparation was in some cases already well advanced.

Policy response: Decisions on transmission charging arrangements, and consideration of the need and funding for new transmission links to remote islands, are a matter for Ofgem as the independent regulator. Transmission charges are designed to be cost reflective to ensure the most efficient use of the network and to limit overall costs to consumers.

Any scheme introduced under the power in Section 185 of the Energy Act 2004 could only be applied for five years, with a possible further five years on review – significantly less than the 15-year term of a CfD contract or the lifetime of a typical project.

Minima and maxima in ‘Pot 2’ allocation rounds

22. Many respondents argued that a ‘minimum’ budget and / or capacity should be ringfenced for remote island wind in the next CfD allocation round. Respondents argued that a minimum would make it more likely that a sufficient ‘critical mass’ of RIW projects are successful in the allocation round to justify the new transmission links to particular remote island groups, and underpin the *Needs Cases* for the development of new transmission links.
23. A smaller number of respondents argued that instead of a minimum in the next CfD allocation round the government should set a ‘maximum’ budget and / or capacity for offshore wind, on the grounds that offshore wind could represent a significant volume of

low-cost competition for RIW wind projects. Respondents noted that there was some precedent for such approaches in the second allocation round, when a maximum was set for the fuelled technologies.

Policy response: Differentiating RIW from other onshore wind projects to enable them to compete in Pot 2 will increase the relative competitiveness of these projects in the context of the CfD scheme as a whole.

Implementing further measures, such as a minimum for RIW or a maximum for offshore wind, could improve the competitiveness of RIW projects relative to the other projects and technologies within Pot 2, and may increase the likelihood that the next allocation round brings forward sufficient RIW capacity to justify one or more new transmission links to the remote islands – however there is some risk that such an approach is not compatible with minimising costs to, and ensuring value for money for, electricity consumers.

Views on timescales and implementation

24. Responses encouraged the government to align, to the extent possible, the timescales for delivering transmission cables to remote islands with the timescales of the CfD support. It was noted that confidence that a sufficient volume of CfD-supported projects would be built was likely to be necessary to justify a transmission connection, but that reasonable confidence in a transmission connection being delivered was conversely likely to be necessary to incentivise RIW projects to bid in to the allocation round. Developers argued that having increased confidence that a transmission connection would be built, and early visibility of the cost of doing so, would be particularly advantageous ahead of finalising a bid.
25. Some respondents stressed the importance of avoiding delay to the intended spring 2019 timeline for the next allocation round to ensure that projects with time-limited planning consents or connection agreements would have an opportunity to bid for a CfD award.
26. A few responses, particularly from developers and suppliers, asked the government to provide early clarity, or at least a “minded to” position, on the delivery years open for the next allocation round - earlier delivery of projects could improve the relative competitiveness of remote island wind. They argued that this would help developers prepare informed bids, finalise supply chain negotiations and, where relevant, prepare Supply Chain Plans. Responses also encouraged the government to consider the risk of creating peaks and troughs for the relevant industrial supply chain when setting the timing of future allocation rounds.

Policy response: The government acknowledges the importance of providing clarity at the earliest date practicable on key parameters, such as delivery years and indicative budgets, for the next allocation round.

Ofgem considers the need and funding for new transmission infrastructure, including the timing. It is also for Ofgem to decide if, and how, to introduce competition into delivery of new transmission infrastructure.

Proposed definition of remote island wind

27. **Question 2** proposed a definition of RIW and sought views on whether requiring projects to meet a specified set of criteria to qualify as an RIW CfD unit would effectively distinguish this group of projects from onshore wind.
28. A few respondents suggested that the higher costs of connecting to and using the transmission system could in themselves be used as a measure of eligibility, rather than the proposed definition.
29. A few respondents proposed additional criteria, for example that the delivery of a net environmental gain should be an eligibility condition.

Policy response: Having considered the responses received, the government considers that the proposed criteria (where particular characteristics are used as an indication of physical and electrical remoteness) provide a suitable measure of RIW, and that requiring projects to provide evidence of costs on project-specific basis would be a burden to developers that offers limited further benefit to consumers.

The government considers that while environmental considerations are important, the criteria used in the application process for the CfD need to be suitable for the Delivery body to assess objectively and within the confines of an allocation round timetable.

30. The first part of the proposed definition provided a measure of physical remoteness, by setting out what a “remote island” is via a requirement that the island must be a minimum of 10km from the mainland. Respondents generally supported this approach, albeit with some queries as to whether islands closer to the mainland could arguably still be considered remote.
31. The proposed definition required that the island be in the *territorial sea*. Respondents suggested this be amended on the grounds that there are two different zones within the territorial sea boundary – “Internal Water” and “Territorial Sea” – and some of the islands that respondents would expect to be covered by the definition were in the former.

Policy response: Having considered the responses received, the government believes that the distance element of the definition is appropriate, and that 10km remains a suitable distance, striking a balance between encompassing locations generally seen as being ‘remote’ (and therefore associated with more challenging operating conditions and increased project costs) while ensuring that there is a sufficient pool of potential locations for RIW developments.

To remove any ambiguity around the reference to the territorial sea, the definition of a remote island has been amended since the initial proposal, and now requires a remote island to be in ‘offshore waters’ (noting that this is defined in the Allocation Regulations as including waters “between the mean low water mark and the seaward limits of the territorial sea”).

32. The second part of the proposed definition provided a measure of electrical remoteness, defined in terms of lengths of cabling between the project and the *Main Interconnected*

Transmission System (MITS), and requiring 50km of cabling, not less than 20km of which must be subsea.

33. Respondents were generally supportive of this approach, however some raised various detailed points.
34. Several respondents were concerned that, under some circumstances the configuration of the transmission assets could mean that an island became included within the MITS at some point in the future, potentially meaning that developers on that island would not be able to compete for CfDs for new RIW projects.

Policy response: If the MITS was to move, which is considered unlikely in the near term, then the government could review the definition to see if it remains fit for purpose. This might include consideration of the barriers, including high connections costs, that projects on the island might continue to face.

35. Respondents also expressed separate concern that if such a situation arose, an operational project already in receipt of a CfD could find its payments withheld if it ceased to meet the criteria set out in the Allocation Regulations.

Policy response: It is not currently the government intention that, after CfD contracts have been awarded to RIW projects, those contracts would be at risk of termination if the MITS were to move. The government expects to consult on any specific drafting changes that may be needed to account for RIW projects in the CfD contract terms.

36. A few responses, while not disagreeing with the distances proposed, noted that the length of transmission cabling was not controlled by RIW project developers; some respondents queried whether developers would be able to identify the location of the MITS at the point of applying. Some proposed reducing the minimum distance to the MITS, potentially bringing additional islands within the scope of the definition. Some suggestions were also made to ensure that the definition works for distribution- as well as transmission-connected projects.

Policy response: The government considers that at the time of applying for a CfD, the project developer and Delivery Body should be able to identify clearly and unambiguously where the MITS (as defined in the NETS SQSS) is located. The distances included in the definition are intended to be a proxy for the specific technological characteristics, and electrical and physical remoteness, that differentiates RIW from other onshore wind projects.

The definition now makes it clearer that a project connecting to the distribution network on a remote island could also qualify as RIW.

Subject to Parliamentary approval, the government expects to make legislation along the following lines:

Remote island wind units

- (1) This regulation applies where the relevant CFD unit is to be a remote island wind CFD unit.
- (2) The applicant must demonstrate that the relevant CFD unit is expected, by the target commissioning date, to satisfy the remote island wind conditions.
- (3) The remote island wind conditions referred to in paragraph (2) are that—
 - (a) the CFD unit generates electricity by the use of wind;
 - (b) the CFD unit is located on a remote island;
 - (c) the CFD unit is connected to the national transmission system for Great Britain or to the distribution system; and
 - (d) either—
 - (i) the generation circuit between the CFD unit and the main interconnected transmission system consists of not less than 50 kilometres of cabling, not less than 20 kilometres of which is subsea cabling; or
 - (ii) where the CFD unit connects to the distribution system, the electrical connection between its grid supply point and the main interconnected transmission system consists of not less than 50 kilometres of cabling, not less than 20 kilometres of which is subsea cabling.
- (4) In this regulation—
 - “cabling” means a conductor used for the carrying of electricity;
 - “generation circuit” has the meaning given to that term in the NETS SQSS;
 - “grid supply point” has the meaning given to that term in the NETS SQSS;
 - “main interconnected transmission system” has the meaning given to that term in the NETS SQSS;
 - “NETS SQSS” means the means the National Electricity Transmission System Security and Quality of Supply Standard, version 2.3, February 2017 issued by National Grid Electricity Transmission plc (registered company number 2366977);
 - “remote island” means an island—
 - (a) located in offshore waters: and
 - (b) the entirety of the coastline (measured from the mean low water mark) of which is situated not less than 10 kilometres from mainland Great Britain; and
 - “subsea cabling” means cabling which is laid on or under the sea bed.”

Evidence requirements at the point of application

37. **Question 2** also sought views on what evidence prospective RIW generators should be required to submit to the Delivery Body to demonstrate that a project has the required characteristics to qualify as a remote island wind project.
38. There were few substantive responses to this part of the question; however, there was consensus that the process should be as simple as possible and use information contained in the relevant Section 36 / planning consent and connection agreement.
39. Several respondents suggested the government should publish a definitive list of 'remote islands', perhaps in the Allocation Framework, which would remove the burden of proof from the developer.

Policy response: The government will set out further details as to how applicants will be required to evidence that they satisfy RIW specific requirements in the Allocation Framework to be published prior to the next Allocation Round.

The government is working with the Delivery Body, the System Operator (National Grid) and the Transmission Owner in the north of Scotland, SHETL, to specify what it is that applicants will need to provide but intends, wherever possible, to use information contained in the planning consent and connection agreement, which must already be provided to the Delivery Body as part of the application process.

The government is considering further the idea of publishing a definitive list of the islands which it considers to be 'remote islands' for the purposes of the amended Allocation Regulations but, at this stage, considers that the publication of an additional list, potentially including many eligible islands of widely varying sizes with little prospect of development, is of limited benefit when developers can relatively easily demonstrate the locations of their projects.

Next steps

- The government intends to lay regulations before Parliament shortly to differentiate RIW from other onshore wind projects. This is subject to Parliamentary approval.
- This Part A of the government response to the December 2017 consultation is focussed largely on the aspects that might be relevant to that legislation. It does not address all the feedback received on wider aspects of the policy. Part B of the response will address wider aspects of RIW policy, including responding to the question in the consultation on how to ensure that these projects will deliver lasting benefits to the islands.
- The government also expects to consult on any specific drafting changes that may be needed to account for this new sub class of eligible generating station in the CfD contract terms.

Combined Heat and Power

Dedicated biomass and energy from waste schemes are only eligible for CfD support if they are deployed with combined heat and power (CHP). In order to receive the maximum rate of support potentially available to them they must demonstrate that they are producing good quality CHP, as defined in a sector-wide quality assurance programme.

The December consultation noted concerns that the standards being applied meant schemes could qualify for Contract for Difference CfD support whilst producing a low level of useful heat, and achieving low levels of overall efficiency. The government therefore proposed to increase the minimum efficiency requirements that would be applied to new schemes seeking CfD support.

In addition, the consultation set out the government's proposals to make amendments regarding how certain eligibility requirements for these types of project are set out in CfD regulations.

Responses received to the consultation

40. Fifteen unique responses to the December consultation addressed this part of the consultation. Respondents included trade associations, companies in the energy industry, consultancies, innovative energy organisations, non-government organisations, non-profit organisations, and members of the public.
41. In addition, approximately 1,500 similar responses (apparently sent in the context of a campaign by Biofuel Watch) were received that were generally supportive of the government's preferred option to increase the overall efficiency of dedicated biomass with CHP and energy from waste with CHP schemes to 70% net calorific value.

Increasing the minimum overall efficiency for new projects

42. The consultation proposed increasing the efficiency requirements for CHP plants for dedicated biomass and energy from waste projects, to ensure projects supported by new CfD contracts use the best available technology and application of renewable CHP, and suggested three possible approaches to implementing it (a preferred option, and two potential alternatives). It also noted that in future allocation rounds the government intention is to only apply the CHP Qualifying Multiplier to those technologies that must deploy with CHP to be eligible for the CfD support (specifically energy from waste with CHP and dedicated biomass with CHP), and not to technologies which have an option to deploy without CHP. **Question 20** sought general views on the proposals.
43. Most respondents supported the principle of increasing the level of overall efficiency for relevant projects participating in the third allocation round. Points made by those who supported this approach included that higher levels of overall efficiency are already required by, and satisfied in, other countries and that the proposals would bring the UK more in line with those standards. Respondents also agreed that increasing the overall efficiency of schemes could help make best use of biomass resources. A few respondents to the consultation argued against this approach, on the grounds that

requiring a higher overall efficiency could prioritise the production of heat over power. Some respondents noted the difficulty new schemes can experience in securing a heat offtaker, potentially limiting the deployment of new schemes in future CfD allocation rounds.

44. Most respondents also supported the preferred approach of requiring a minimum overall efficiency of 70% (net calorific value), a minimum primary energy saving of 10% (gross calorific value) and a minimum 10% heat efficiency (gross calorific value). It was suggested that it could be challenging for an energy from waste with CHP scheme to reach an overall efficiency of over 50%, although we received no particular evidence to support this argument.

Policy response: Having considered responses to the consultation, the government considers that a higher efficiency should be achievable for a reasonable range of projects, and therefore intends to increase the minimum overall efficiency levels. Wider issues raised in responses such as the challenges of finding heat offtakers, and the likely production of more heat, are acknowledged; however as these technology categories explicitly require CHP it is reasonable to expect the CHP to have a significant heat element.

The government intends to require all dedicated biomass with CHP and energy from waste with CHP schemes applying for new CfD contracts to have a minimum:

- 70% overall efficiency (net calorific value)
- primary energy saving of 10% (gross calorific value)
- 10% heat efficiency (gross calorific value)

Extending the new efficiency requirement to smaller schemes

45. In previous allocation rounds, dedicated biomass with CHP and energy from waste with CHP schemes sized under 25MWe faced no overall efficiency requirement, but did have to deliver a 10% primary energy saving and a 10% gross calorific value minimum heat efficiency. **Questions 21 and 22** sought views on whether an overall efficiency requirement should be introduced for these smaller schemes in connection with future CfD allocation rounds.
46. Most respondents suggested the same requirements should be applied to schemes under 25MWe as were applied to larger schemes. Arguments made included that this would encourage the efficient use of resources by all schemes, and that there were no technical obstacles to smaller schemes achieving 70% overall efficiency provided they were designed and sited with a focus on one or more heat customers.
47. Some respondents did express concerns with this approach, with suggestions that energy from waste with CHP schemes could find it challenging to meet 70% overall efficiency (it was suggested that 50% would be more achievable, though limited evidence was available on this point). Concerns were also expressed regarding the difficulty of securing suitable offtakers for any heat produced.

Policy response: Having considered responses to the consultation, the government intends to apply the same efficiency requirements to plants under 25MWe as to larger plants.

Increasing the minimum heat efficiency

48. **Question 23** sought views on whether the government should (in addition to applying a higher overall efficiency threshold), also increase the minimum heat efficiency above the current threshold of 10% gross calorific value (gross calorific value), with various potential combinations of minimum thresholds proposed as “Alternative 2” in the consultation document.
49. Relatively few responses to this question were received, and views varied. Some were supportive, suggesting that the highest level of overall efficiency and heat efficiency should be put in place. Others argued there was little value in requiring a minimum heat efficiency (suggesting, for example, that if a scheme was to meet 70% overall efficiency, it would in practice need to produce a minimum of 25% heat efficiency regardless of whether this was formal requirement). Arguments were also made that this approach could impact on electrical efficiency.

Policy response: Having considered responses to the consultation, the government does not plan to increase the minimum heat efficiency.

An increased overall efficiency requirement will in itself ensure that future CfD supported plants deliver more efficient CHP, and applying an additional minimum heat efficiency threshold could limit flexibility for developers to balance their output between heat and power while offering limited additional benefits.

Removing a legislative reference to the CHPQA Standard

50. The proposed new efficiency requirements would be set out in an updated version of the CHP Quality Assurance Standard (CHPQA, a government initiative that provides a practical, determinate method for assessing all types and sizes of CHP schemes throughout the UK³).
51. **Questions 24 and 25** sought views on a proposal to remove the reference to the CHPQA standard from the *Contracts for Difference (Definition of Eligible Generator) Regulations 2014*, rather than updating the reference in the regulations to refer to the updated version of the standard.
52. This change was not expected to have any practical impact on applicants, as the developers of projects using technologies which must deploy with CHP to be eligible to compete in CfD auctions (Dedicated Biomass with CHP and Energy from Waste with CHP) would be asked to confirm at the point of application that they are aware that the CHPQA related requirements set out in CfD standard terms and conditions will apply to them. The government intends to update those CHP specific contract terms to refer to the

³ Details of CHPQA are available at www.gov.uk/guidance/combined-heat-power-quality-assurance-programme

revised, incoming CHPQA standard in advance of the next Allocation Round as it has done previously (and, as above, the government intends to consult on those contract changes in due course).

53. Those who responded generally agreed that this is the right approach to take and had no further comments.

Policy response: Having considered the responses received to the consultation, government plans to make a change to the Eligible Generator Regulations along the following lines, removing the requirement for certain classes of eligible generator to intend to accredit their project under the CHPQA standard:

Amendment of the Contracts for Difference (Definition of Eligible Generator) Regulations 2014

Regulation 2(1) of the Contracts for Difference (Definition of Eligible Generator) Regulations 2014 (a) is amended as follows.

(1) Omit the definition of “accredited CHP station”.

(2) Omit the definition of “CHPQA”.

(3) In the definition of “dedicated biomass with CHP station”, in sub-paragraph (a), for “is an accredited CHP station” substitute “is a CHP station”.

(4) In the definition of “energy from waste with CHP station”, in sub-paragraph (a), for “is an accredited CHP station” substitute “is a CHP station”.

(a) S.I. 2014/2010; the relevant amending instrument is S.I. 2016/1108.

Next steps

- An updated version of *Guidance Note 44* of the CHPQA standard (version 7), including updated efficiency requirements, is expected to be consulted on in due course.
- The government intends to lay regulations before Parliament to implement these changes, subject to Parliamentary approval, into national legislation.
- The government expects to consult on any contract changes associated with these proposals.

Amending the definition of 'waste'

The government proposed amending the definition of 'waste' in The Contracts for Difference (Definition of Eligible Generator) Regulations 2014 (the Eligible Generator Regulations) to bring it into line with the new EU definition of 'waste' in Directive 2009/28/EC (the Renewable Energy Directive) as amended by Directive 2015/1513⁴.

This amendment would make it clear that the term 'waste' excludes any substance that has been intentionally modified or contaminated in order to fall within the existing definition of the term, thereby potentially avoiding the application of certain sustainability criteria that would otherwise apply.

The consultation further proposed applying the new definition for all purposes where the term 'waste' is used in the CfD scheme and/or by reference to the Eligible Generator Regulations in order to avoid creating unnecessary confusion and burdens on generators, as well as distortions in the waste feedstock market.

Finally, we invited views on our expectation that participants in future CfD rounds do not intend to use intentionally modified or contaminated materials and that they would want to ensure that the fuels that they use meet the appropriate sustainability standards, and that consequently this amendment would have no impact on the fuelled technology sector.

Responses received to the consultation

54. Eight responses to the December consultation addressed this proposal, all of which supported the proposal to bring the definition of 'waste' in the Eligible Generator Regulations into line with the new EU definition in the Renewable Energy Directive. Four of these respondents also agreed that the amendment to the 'waste' definition as proposed in the consultation document would have no impact on the fuelled technology sector.

Proposal to amend the definition of 'waste'.

55. **Question 32** sought views on the proposal to amend the definition of 'waste' in the Eligible Generator Regulations and the CfD Agreement to bring it into line with the new 'waste' definition in the Renewable Energy Directive as amended by Directive 2015/1513.
56. No respondents commented on the proposal to apply the amended definition for all purposes where the word 'waste' is used in the CfD scheme. Respondents made various additional comments, including suggestions of ways in which the "waste" definition could be amended. However, the government's intention is to ensure consistency with EU

⁴ The Renewable Energy Directive, "Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (Text with EEA relevance)", and available at the Europa.eu website.

legislation and with how the definition has been transposed into the other UK renewable energy support schemes, including the Renewables Obligation.

57. Respondents also made various suggestions in response to this question which appear to be more relevant to other proposals in the December consultation document, for example, on Advanced Conversion Technologies, and a suggestion to include a requirement on CfD applicants to declare that their feedstocks/energy content meet the appropriate sustainability standards. These suggestions do not directly affect the proposal to amend the definition of "waste" in national regulations, however, the government will consider these comments further in their appropriate context and potentially address them in the further government response that will deal with the wider range of proposals in the consultation.

Policy response: In view of the consultation responses summarised above, the government will, subject to parliamentary approval, amend the current definition of "waste" in The Contracts for Difference (Definition of Eligible Generator) Regulations 2014 to make it clear that the term 'waste' excludes any substance that has been intentionally modified or contaminated to fall within the definition of waste in Article 3(1) of the Directive 2008/98/EC (the Waste Framework Directive). The definition will apply in relation to bioliquids, and solid and gaseous biomass.

We expect to make a legislative change along the following lines:

Amendment of the Contracts for Difference (Definition of Eligible Generator) Regulations 2014

Regulation 2(1) of the Contracts for Difference (Definition of Eligible Generator) Regulations 2014 (a) is amended as follows.

For the definition of "waste" substitute—

“ "waste" has the meaning given in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council on waste (b) but does not include—

- (a) landfill gas;
- (b) sewage gas; or
- (c) any substance intentionally modified or contaminated to fall within the meaning given in Article 3(1) of that Directive.”

(a) S.I. 2014/2010; the relevant amending instrument is S.I. 2016/1108.

(b) Directive 2008/98/EC of the European Parliament and of the Council of 19th November 2008 on waste and repealing certain Directives, OJ No L 312, 22.11.2008, p.3. There are amendments but none are relevant to these Regulations.

Next steps

- The government intends to lay regulations before Parliament to incorporate the new definition of "waste", subject to Parliamentary approval, into national legislation
- The government expects to consult later this year on specific drafting changes to reflect the new definition in the CfD contract terms.



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