



Department  
of Energy &  
Climate Change

# **Government Response to the consultations on the Renewables Obligation Transition and on Grace Periods**

12 March 2014

**Government Response to the consultations  
on the Renewables Obligation Transition  
and on Grace Periods**

Department of Energy and Climate Change  
3 Whitehall Place  
London  
SW1A 2AW

Telephone: 0300 068 4000  
Website: [www.decc.gov.uk](http://www.decc.gov.uk)

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For further information on this Government Response, contact:

RO Transition Team  
Department of Energy and Climate Change  
3 Whitehall Place  
London  
SW1A 2AW

Telephone: 0300 068 5148 or 0300 068 5284

Email: [rotransition@decc.gsi.gov.uk](mailto:rotransition@decc.gsi.gov.uk)

The Government Response can be found on DECC's website:

<https://www.gov.uk/government/consultations/transition-from-the-renewables-obligation-to-contracts-for-difference>

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# Table of Contents

<b>1. Executive Summary</b> .....	<b>5</b>
<b>2. Choice of Scheme</b> .....	<b>11</b>
<b>3. Evidence Requirements</b> .....	<b>16</b>
<b>4. Obligation-Setting</b> .....	<b>20</b>
<b>5. Dual Scheme Facilities</b> .....	<b>23</b>
<b>6. Small-scale Additional Capacity</b> .....	<b>27</b>
<b>7. Closure Arrangements</b> .....	<b>31</b>
<b>8. Grace Periods</b> .....	<b>34</b>
<b>9. Technology-specific measures</b> .....	<b>52</b>
<b>10. Fixed Price Certificate</b> .....	<b>59</b>
<b>Annex A: List of Respondents to RO Transition Consultation</b> .....	<b>62</b>
<b>Annex B: List of Respondents to RO Grace Periods Consultation</b> .....	<b>63</b>
<b>Annex C: Grace Period Terms Table</b> .....	<b>64</b>
<b>Annex D: Grace Period Eligibility by RO Band</b> .....	<b>66</b>
<b>Annex E: Analytical Annex</b> .....	<b>67</b>

# 1. Executive Summary

## Introduction

- 1.1 One key aspect of Electricity Market Reform (EMR) is the transition from the Renewables Obligation (RO), the current main support mechanism for large-scale renewable electricity generation, to Contracts for Difference (CfD), the new support mechanism for low-carbon electricity generation. The overarching policy on RO transition was set out in the July 2011 White Paper *Planning our electricity future*, in which the Government announced its intention to close the RO to new generating capacity from 31 March 2017.
- 1.2 On 17 July 2013, the Government published a consultation paper setting out proposals for the operation of the RO during the transition period, which runs from the point of introduction of CfDs in 2014 to the end of March 2017 when the RO closes to new capacity. In this consultation we sought views on the processes for implementing the policies on RO closure and transition. Proposals included: that the choice of scheme should take place at the point of application for the RO or CfD; that operators of Dual Scheme Facilities would be expected to treat the capacity in each scheme as distinct and separate; and technology-specific requirements for biomass plants and offshore wind.
- 1.3 We also proposed a change in the timing of the annual process for setting the level of the RO and sought views on whether the position on the timing of the introduction of the Fixed Price Certificate remains as set out in the White Paper.
- 1.4 Following initial consideration of representations and consultation responses, the Government published a further consultation on 7 November 2013 proposing detailed arrangements for the eligibility criteria and lengths that would apply to the grace periods to be offered at the point of RO closure to new generating capacity across Great Britain. This consultation closed on 28 November 2013.
- 1.5 This document is the Government Response to both the above consultations and sets out the Government's decisions on these matters.

## Associated Issues

- 1.6 In the Offshore Wind Industrial Strategy, the UK Government recognised that the UK had done more than any other country to support the development of a sustainable and ambitious offshore wind industry but would have to work hard to keep that position and to reap the rewards. Along with EMR, our approach to the RO will offer industry support lasting into the 2030s and help provide the certainty needed to underpin long term investment. This will also provide the framework necessary to support large scale investment in the UK supply chain. In this context the Government is inviting developers to share their plans for the supply chain as early as possible.
- 1.7 As you will recall, the CfD Allocation Consultation welcomed comments from respondents on whether and how they would amend their responses to the questions asked in that consultation if, in light of those factors, the Government was also required to amend the

RO for more established technologies in order to manage calls on the overall budget and the likely requirements of State Aid rules. The majority of respondents who commented on this issue in response to that consultation made strong representations against any change to transition policy or to the operation of the RO between now and 2017.

- 1.8 Respondents stated that such change could destabilise investment decisions and cause uncertainty across the renewables industry in general, as it would be perceived as a retrospective change to a stable scheme which investors currently trust. Some respondents indicated that, if some form of change were essential, it should take the form of an emergency Banding Review rather than a change to the transition period or choice of scheme policy. Respondents also stated that developers who have already invested substantially in projects should be protected from the impact of any change. Other respondents, including consumer groups, took the view that there should be consistency across different schemes in order to prevent gaming and to ensure value for money for consumers.
- 1.9 We continue to analyse these responses and those to the formal questions within the CfD Allocation Consultation in detail. We are still considering whether any such amendment to the RO for technologies within the 'established' CfD pot<sup>1</sup> is required. As we have previously stated, if we do identify such amendments then they would be subject to consultation, and we would seek to protect developers who have made significant investments in projects from the impact of those changes. The standard RO transition and grace period policy decisions set out within this Government Response should be read in that context.

## Responses to the consultations

- 1.10 The consultation on the RO transition proposals closed on 25 September 2013. In total 46 responses were received from electricity companies, independent generators, developers, manufacturers, financiers, trade associations and consultants. A list of the respondents can be found at **Annex A**.
- 1.11 The consultation on the RO grace period proposals closed on 28 November 2013. In total 49 responses were received from electricity companies, independent generators, developers, manufacturers, financiers, trade associations and consultants. A list of the respondents can be found at **Annex B**.
- 1.12 We would like to thank all those who took the time to respond to each consultation.

## Analysis

- 1.13 We have adjusted the analytical annex to the Transition Consultation to reflect the key policy decisions made on the basis of the responses received. There was no analytical annex to the Grace Periods Consultation; however, analysis of grace periods policy has

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<sup>1</sup> The make-up of this pot will be finalised on the basis of analysis of responses to the CfD Allocation Consultation.

been included in the revised analytical annex to the Transition Consultation, which can be found at **Annex E**.

## Feedback and decisions

- 1.14 A significant majority of respondents who commented (over 80%) were in agreement/partial agreement<sup>2</sup> with the proposals that the choice of scheme for new generating stations and additional capacity should take place at the point of application for the RO or CfD or at the point of signature of an Investment Contract. **The Government has decided to maintain this policy on the point of choice of scheme.**
- 1.15 The majority of respondents who commented (over 60%) were in agreement/partial agreement with the eligibility arrangements and associated evidence proposed for RO applications for new generating stations, and with the registration process for additional capacity. Whilst most respondents acknowledged the importance of ensuring that no capacity should receive financial support via two schemes at once, some challenged the specific evidence forms proposed, considering that they would constitute a disproportionate administrative burden. **The Government has decided that operators applying for the RO or CfD will be asked to provide a self-declaration which will then be subject to verification via data sharing between the CfD Delivery Body<sup>3</sup> and Ofgem.** The majority of other eligibility and evidence requirements for new generation applications, and the additional capacity registration process, will remain as proposed in the consultation, aside from some minimal adjustments relating to the circumstances in which Investment Contracts may be terminated.
- 1.16 Only slightly more than half of respondents who commented were in agreement/partial agreement with the proposal to move the date for confirming the level of the Obligation to February on the basis of greater forecasting clarity. The main reasons for disagreeing were that this would have an adverse impact on consumer bills. **The Government is committed to minimising the impact of its policies on consumers wherever possible; we have therefore decided that it would be inappropriate to proceed with the proposed change.**
- 1.17 A significant majority of respondents who commented (87%) agreed with the proposed metering and fuel measuring requirements for Dual Scheme Facilities. However, these respondents had varied views on the degree of accuracy required. A number expressed the view that the requirements were disproportionately expensive and difficult to implement, whilst others considered that this expense was justified. **The Government has decided to keep the requirement that net electricity generation and fuel usage in the RO and CfD schemes at Dual Scheme Facilities must be kept distinct and separate.**
- 1.18 The majority of respondents who commented (70%) disagreed with the proposal not to offer support to additional capacity added to RO accredited stations after 31 March 2017 that was less than 5MW in size. A number of respondents objected to this on the grounds

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<sup>2</sup> 'Partial agreement' is defined for the purposes of this document as agreement in principle to the proposal or the main elements of the proposal, alongside suggestions for adjustments to some aspects of the proposal, or for alternative interpretations of the proposal.

<sup>3</sup> National Grid has the role of the CfD Delivery Body, and is referred to throughout this document as such

that it would disincentivise development of that additional capacity, particularly in technologies such as Solar PV, Advanced Conversion Technologies (ACT) and Sewage Gas. The evidence provided, however, was not sufficient to demonstrate a significant negative impact and **the Government has decided not to offer support for new additional capacity of 5MW or less added to RO accredited stations after 31 March 2017.**

- 1.19 There was widespread misunderstanding of the proposals on closure arrangements for biomass co-firers, and of what the restrictions meant in practice. **The Government has decided that the grandfathering policy will be extended to include the low-range co-firing band as of 31 March 2017 at the support rate applicable on that date. The grandfathering policy for all other technologies remains unchanged.** The Government continues to consider responses to proposals for a restriction to the way in which biomass co-firers and biomass conversions can switch between support bands after the RO closure date, and may consult further on this question.
- 1.20 The majority of respondents who commented agreed with the proposals for grace periods covering delays due to grid connection and radar, and to the grace period for signatories of Investment Contracts. **The Government has decided that 12 month grace periods will be offered both for grid connection or radar delays, and to signatories of Investment Contracts if those Investment Contracts are withdrawn under certain circumstances.**
- 1.21 The majority of respondents who commented also supported the grace period enabling financial decisions and the grace period for dedicated biomass in principle, but proposed a range of changes to the detail of these grace periods. **The Government has decided to offer the 12 month ‘enabling financial decisions’ grace period only to those technologies which we consider to have an overall higher risk of delay: ACT and offshore wind. The Government has also decided to offer the 18 month grace period to dedicated biomass CHP as well as to dedicated biomass power-only projects within the 400MW cap.**
- 1.22 A significant majority of respondents who commented (88%) agreed with the proposal that operators of RO accredited biomass co-firing stations should have the option of applying for a CfD or an Investment Contract as biomass conversions. **The Government confirms its intention to offer operators of RO accredited biomass stations or units which have never claimed ROCs under the dedicated biomass or biomass conversion support band the opportunity to leave the RO if successful in applying for a CfD or Investment Contract as a biomass conversion.** On the basis of an assessment of the responses provided, the Government has decided not to offer this option to other technologies. The detailed arrangements for making a transfer of this sort will remain as set out in the consultation document, but with changes to enable the use of self-declarations as set out above.
- 1.23 The majority of respondents who commented (70%) were in favour of biomass co-firing stations being given the option of leaving the RO if successful in a bid into the Capacity Market (CM). **The Government confirms the arrangements to allow biomass co-firing stations and units to bid into the CM and leave the RO if successful in that bid.** Having considered consultation responses, the Government does not intend to offer this option to a wider group of RO accredited stations.



- 1.24 A significant majority of respondents who commented (90%) were in favour of allowing offshore wind projects which are already accredited under the RO at the point of closure, and which are commissioning in phases, to register any unregistered offshore turbines under the RO, the CfD or a combination of both. This provides maximum flexibility and minimises the risk of an investment hiatus. **The Government has decided that offshore wind operators will be given these three options to register their remaining turbines.** Whilst turbines can be registered in either scheme, it should be noted that the same turbine cannot be registered in both schemes.
- 1.25 The Government has assessed all the views on the timing of the introduction of the Fixed Price Certificate scheme following evidence from some stakeholders that the previously established date of 2027 was no longer suitable. Respondents to the consultation expressed a wide range of views, and referenced various risks related to the different possible introduction points. **Our assessment is that the arguments in favour of maintaining the established date outweigh, on balance, the arguments for earlier introduction. Full details of this assessment are set out in Section 10. The scheme will therefore be introduced on 1 April 2027.** Government will be preparing and consulting upon the detailed design of the Fixed Price Certificate Scheme, and the associated secondary legislation, in due course.
- 1.26 Please note that in all sections of the document the question numbers referenced reflect the thirteen questions from the RO Transition Consultation, with the exception of **Section 8**, in which the six questions from the RO Grace Periods Consultation are the ones referenced.

## Implementation

- 1.27 The decisions set out in this document on transition arrangements apply to the RO in England and Wales. The Scottish Government consulted separately on the transition arrangements but did not receive any evidence to suggest a different approach should be taken to that in England and Wales. Decisions on grace periods across Great Britain are a matter for the UK Government.
- 1.28 These decisions will be implemented in secondary legislation within several different Orders, as follows:
- a. The majority of transition policy decisions will be implemented in England and Wales, via a Renewables Obligation (Amendment) Order 2014 which was laid in Parliament on 10 February 2014, accompanied by a Written Ministerial Statement giving a summary of the policy in question;
    - i. We understand that similar provisions will be implemented in Scotland, via a separate Renewables Obligation (Scotland) Amendment Order 2014, which was laid in the Scottish Parliament on 19 February 2014.
  - b. Both the above orders will also implement the policy decisions on proposals to enhance the sustainability criteria for the use of biomass feedstocks under the RO set

out in the Government Response published on 22 August 2013,<sup>4</sup> and the equivalent Response from the Scottish Government. The changes made by these Orders are intended to come into force on 1 April 2014;

- c. Some remaining transition policy decisions, such as those relating to interaction between the RO and the Capacity Market, will be implemented within RO Consolidated Order for England and Wales later in 2014/15, and we understand that a similar process will take place for Scotland;
- d. Grace period policy decisions will be implemented for Great Britain within an RO Closure Order (2014), which we expect to lay in Parliament in May. The changes made by that Order are intended to come into force in July 2014.

1.29 All of the above Orders are subject to Parliamentary approval.

1.30 All decisions and associated implementation arrangements regarding transition and grace periods in Northern Ireland are for the Department of Enterprise, Trade and Investment in Northern Ireland.

## Contact details

1.31 If you have any questions regarding this response, please contact:

RO Transition Team  
Department of Energy and Climate Change  
3 Whitehall Place  
London  
SW1A 2AW

Telephone: 0300 068 5148 or 0300 068 5284

Email: [rotransition@decc.qsi.gov.uk](mailto:rotransition@decc.qsi.gov.uk)

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<sup>4</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/231102/RO\\_Biomass\\_Sustainability\\_consultation\\_-\\_Government\\_Response\\_22\\_August\\_2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/231102/RO_Biomass_Sustainability_consultation_-_Government_Response_22_August_2013.pdf)

## 2. Choice of Scheme

**Question 1** asked for views on the proposal that the choice of scheme in relation to new generating stations should take place at the point of application for the RO or CfD. **Question 4** covered the same topic in relation to additional capacity. This section of the Government Response covers these two questions in combination.

### Introduction

- 2.1 During the transition period, when both the RO and CfD are open for applications, operators of new generating capacity will have a 'choice of scheme' for that capacity. In the RO Transition Consultation, we proposed that this choice of scheme should take place at the point of application either for a CfD or for RO accreditation, or at the point of signature of an Investment Contract.
- 2.2 This difference was in acknowledgement of the fact that operators have applied for Investment Contracts under FID Enabling for Renewables in advance of the publication of final policy arrangements for RO transition, and could not therefore take those arrangements into account in choosing to participate in the FID Enabling process.
- 2.3 In the RO Transition Consultation, Government asked two questions on this issue, covering the choice of scheme for new generating stations separately from the choice of scheme for additional capacity at RO accredited stations. As the majority of respondents gave aligned views in response to these two questions, we have combined these for the purposes of the Government Response.

### Main messages from responses

<b>The choice of scheme should take place at the point of application for the CfD / RO, or at the point of entry into an investment contract</b>		
	<b>Question 1 New Generating Stations</b>	<b>Question 4 Additional Capacity</b>
Agreed	19	21
Partially Agreed	12	9
Inconclusive	1	1
Disagreed	6	6
No comment	8	9

- 2.4 The majority of respondents were in agreement with the proposals set out in the consultation document. Of those who agreed, several respondents considered that requiring the choice of scheme to take place at the point of application was logical, given

that in practice the RO and the CfD involve different approaches (for example to financing) from early in the development process.

- 2.5 A number of respondents qualified their agreement by stating that generators should be able to apply for or sign a CfD, and then still be eligible to apply for accreditation under the RO if they voluntarily withdraw from the CfD process, either before or after signature. Such respondents stated that this could be necessary:
- a. If State Aid clearance were not received on the expected schedule;
  - b. If a CfD turns out not to be suitable for a project after the point of application, or if a project's circumstances change (for example, during the course of a CfD allocation round), and the operator is no longer able to meet the terms of the CfD; or
  - c. To allow operators to proceed with investment decisions while awaiting the outcome of a CfD application.
- 2.6 A number of respondents who disagreed with the proposal suggested that the choice of scheme should take place at a later stage than the point of application: for example, the point at which the CfD is signed or RO accreditation is granted. The rationale for this view was similar to that set out in paragraph 2.5 above. It was also suggested that to make the choice of scheme equivalent in terms of timescales, projects wishing to accredit under the RO should be able to do so at a much earlier point in the development/construction process than at present.
- 2.7 Some respondents also asked for further clarification of the way in which the choice of scheme will operate in respect of Investment Contracts under FID Enabling. Others raised concerns regarding the fact that applications for the different schemes take place at very different stages in the development and construction process, which they considered to be a disadvantage in relation to the choice of scheme, in particular in the context of the point highlighted in paragraph 2.5 b above.
- 2.8 The majority of respondents expressed the same views on this issue in relation both to new generating stations and to additional capacity. Some respondents considered that the proposed point of choice of scheme was more appropriate to additional capacity than to new generating stations. Others sought clarification on the interaction between the choice of scheme for additional capacity, and the <5MW constraint on support for additional capacity after 31 March 2017.

## Post-consultation decision

### Choice between the RO and the Contract for Difference

- 2.9 **The Government has decided to adopt the policy on the point of choice of scheme as set out in the consultation document.** This means that the choice of scheme will take place at the point at which the operator:
- a. Applies for RO accreditation for a new generating station; or
  - b. Applies to register additional capacity under the RO at an existing RO station; or

c. Applies for a CfD.

- 2.10 The operator will regain his/her choice of scheme if the initial application for either scheme is unsuccessful. In the case of applications for the CfD, this applies whether the lack of success is due to failure to meet CfD eligibility requirements or to failure within the CfD competitive allocation process – in either circumstance, the choice of scheme would be regained. In all cases, choice of scheme is subject to all the other eligibility requirements and allocation procedures which apply in relation to the RO or CfD.
- 2.11 The operator will not regain his/her choice of scheme if he/she applies for either scheme and then either voluntarily withdraws that application, or refuses the offer of RO accreditation or CfD signature. Allowing operators to make an application for either scheme and then withdraw in favour of the other would be likely to increase the number of applications to both schemes, and would therefore constitute an administrative burden on both Ofgem and the CfD Delivery Body, with associated costs for consumers. It would also increase the risk of double subsidy, as operators could receive two offers of support in parallel. Increased checks on the part of Ofgem and the Delivery Body would therefore also be required, to manage that risk. In addition, allowing operators to withdraw from one scheme and apply for another even after their application were successful would reduce Government's ability to assess and manage expenditure on each scheme within the Levy Control Framework.
- 2.12 Although we appreciate that a number of respondents would prefer the flexibility to withdraw and switch between the different schemes during or after application processes, we do not consider that sufficient arguments have been presented which demonstrate that such flexibility is key to projects' viability, and which effectively counter the arguments in favour of the proposed policy.
- 2.13 In response to the specific arguments given in favour of flexibility:
- a. Government does not expect applications for CfDs to be open in advance of State Aid clearance, nor do we consider that there will be any requirement to adjust the choice of scheme arrangements in relation to State Aid for generic CfDs;
  - b. At the point at which CfDs are open for application, operators should have full clarity on the terms and conditions within the CfD, and the surrounding application and allocation process. The operator will therefore be able to make an informed choice as to whether a CfD is the right choice for their project, and whether they can commit to CfD terms;
  - c. If an operator is rejected for a CfD, whether due to ineligibility or due to down-select during a constrained allocation round, the operator will then regain the choice of scheme in relation to the relevant project, and will therefore be able to apply for RO accreditation after their rejection for the CfD. In other words, the current policy already allows an operator for whom the CfD and RO are both viable options to proceed with investment decisions on the basis that he/she will either be successful in that CfD application, or will be rejected and will then be able to apply for the RO.
- 2.14 In response to concerns about the different stages of the development and construction process at which an operator is expected to apply for the different schemes, we should clarify that the timing of CfD applications is designed to increase certainty for investors, by allowing them to make investment decisions on the basis of the assurance of a contract. This is an improvement over the current process in relation to the RO, in which an

operator goes forward with a project but is unable to fully accredit (and thereby have assurance of support scheme access) before the station is commissioned. The fact that operators of projects which fail to receive a CfD still have the option of applying for RO accreditation thereafter protects operators against the portion of risk in applying for a CfD which is outside their control. Applications for a CfD are at operators' own risk in relation to other factors, such as their ability to comply with CfD terms and conditions.

- 2.15 During the transition period, additional capacity of any size added to an RO accredited station will continue to be eligible for registration under the RO, as long as an application for a CfD has not been made in respect of any part of the station. However, once the choice has been made in favour of the CfD on any part of the station, no further capacity can be registered under the RO, unless the application for the CfD is unsuccessful.

### Choice between the RO and the Investment Contract

- 2.16 **The Government has decided to maintain the policy on the point of choice of scheme as previously proposed.** This means that the choice of scheme will take place at the point at which the operator either:
- a. Applies for RO accreditation; or
  - b. Signs an Investment Contract under FID Enabling.
- 2.17 The Government allowed parallel applications for an Investment Contract and the RO because applications for Investment Contracts under FID Enabling took place in advance of full clarity on RO transition policy. Applications for FID Enabling have now closed. Moreover, to accommodate concerns raised by respondents in relation to the State Aid clearance process, and the fact that the Investment Contract process is going forward in advance of the rest of EMR, Government will reinstate the choice of scheme for signatories of Investment Contracts under the conditions set out in paragraph 2.18 below.
- 2.18 The consultation proposed that signatories to an Investment Contract would have their choice of scheme reinstated if the Investment Contract was terminated through no fault of the operator party to the Investment Contract. In response to the consultation, we have changed this to a more precise and objective list of circumstances. Signatories to an Investment Contract will have their choice of scheme reinstated if that Investment Contract falls away or is terminated for certain reasons relating either to State Aid, or to possible amendments to the Investment Contract in the light of the standard terms for CfDs (which we expect will first be issued after Investment Contracts have been signed). Signatories are also entitled to access the Investment Contract Grace Period under these circumstances, on which details are provided in paragraphs 8.16-8.24 of **Section 8**.
- 2.19 The detailed definition of the circumstances in which Investment Contracts may be terminated will be set out in the final draft Investment Contracts that we expect will be sent in March 2014 to FID Enabling applicants whose projects have met the minimum threshold evaluation criteria. Some relevant information is already available in the draft

Investment Contract issued to these applicants in December 2013, and in the publication: *FID Enabling for Renewables: Update 3: Contract Award Process*.<sup>5</sup>

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<sup>5</sup> <https://www.gov.uk/government/publications/increasing-certainty-for-investors-in-renewable-electricity-final-investment-decision-enabling-for-renewables>

## 3. Evidence Requirements

**Question 2** asked for views on the eligibility arrangements and associated evidence required for RO applications for new generating stations during the transition period. **Question 5** covered the same topic in relation to additional capacity. This section of the Government Response covers these two questions in combination.

### Introduction

- 3.1 In line with the proposal (described in **Section 2** above) that the choice of scheme between the RO and CfD takes place at the point of application for either scheme, Government proposed additional eligibility and evidence requirements for applications for RO accreditation during the transition period. These requirements were designed to give Ofgem assurance that the capacity for which an operator was seeking RO accreditation was not also subject to an application for CfD support, or to a signed CfD. Similar processes were envisaged for CfD applications.
- 3.2 Government also proposed a new formal registration process for additional capacity at RO accredited stations, where the operator was seeking support for that additional capacity under the RO. This requirement was designed to ensure effective management of the choice of scheme for additional capacity at RO accredited stations.

### Main messages from responses

Eligibility and evidence requirements for accreditation under the RO, and the additional capacity registration process		
	Question 2 New Generating Stations	Question 5 Additional Capacity
Agreed	16	17
Partially Agreed	14	12
Inconclusive	2	1
Disagreed	6	6
No comment	8	10

### Evidence Requirements

- 3.3 Many respondents agreed with the principles underlying the additional evidence requirements, and acknowledged the importance of ensuring that no capacity could



receive financial support via two schemes at once. Some of these respondents also noted that they considered the proposed evidence requirements proportionate and suitable. However, a number of respondents challenged the proposal that applicants for the RO would be required to submit a letter from the CfD Delivery Body as part of their RO application. Such respondents said that this requirement would be unnecessarily burdensome for operators, as well as for Ofgem and the Delivery Body. They referenced the time that production of such a letter would take, the number of letters that would be likely to be required, and the delays that this additional step could cause to application processes.

- 3.4 Respondents who held this view suggested a number of alternative approaches, as follows:
- a. The Delivery Body and Ofgem should use a shared database of projects, or should share data in some other way, to verify a self-declaration provided by an applicant for either scheme;
  - b. The operator should provide a declaration, which would then be subject to an audit or spot check carried out by Ofgem;
  - c. Ofgem should commission the letter direct from the Delivery Body, without the operator having to carry this out directly;
  - d. Ofgem and the Delivery Body should utilise the data in public registers of RO accredited projects and signed CfDs to verify applications.
- 3.5 A number of respondents stated that, if the proposal of verification letters were to be retained, a time limit for providing these would be necessary, as otherwise the process could have an undue impact on applicants' project timings. Some suggested specific time limits, ranging from 14 days to one month in length.
- 3.6 Clarification was requested in relation to the requirements surrounding preliminary accreditation and the definition of additional capacity. One respondent asked for confirmation that RO accreditation would not be prevented if the administrative processes relating to the application for that accreditation continued beyond 31 March 2017.
- 3.7 The majority of respondents expressed the same views on this issue in relation both to new generating stations and to additional capacity. Some respondents considered that the proposed requirements were slightly more proportionate when applied to additional capacity than to new generating stations. Others had less interest in additional capacity provisions than in those for new generating stations.

### **Additional Capacity Registration Process**

- 3.8 Few respondents commented directly on the proposal to introduce a formal registration process for additional capacity, and the majority of those who did comment agreed with the proposal as a logical step.

## Post-consultation decision

- 3.9 **On the basis of consultation responses, the Government has decided that operators applying to accredit new stations under the RO or applying to register additional capacity under the RO must provide a self-declaration which will then be subject to verification via data-sharing between the CfD Delivery Body and Ofgem. This self-declaration will include:**
- a. Information sufficient to identify the capacity for which RO accreditation is sought, including project name and location;
  - b. A statement that the operator has not entered into an Investment Contract, OR that the Investment Contract has been terminated for certain reasons relating to State Aid or relating to the Standard CfD Terms and Conditions;
  - c. A statement that the operator has not made, and will not make, an application to the CfD, OR that a previous application had been made and was unsuccessful;
  - d. Acknowledgement that the operator understands that Ofgem and the Delivery Body will liaise in any way necessary for both organisations to satisfy themselves that the declaration is accurate;
  - e. A statement that a copy of the declaration will be sent to the Delivery Body in parallel;
  - f. A statement that the operator understands that applying for RO accreditation or applying to register additional capacity under the RO makes them ineligible for a CfD on the accredited capacity of the station or on the additional capacity being registered under the RO, unless the application for the RO is unsuccessful.
- 3.10 An equivalent self-declaration will be required for CfD applications. Versions of this self-declaration will also be required for applications to the CfD from operators seeking a CfD for additional capacity at an RO accredited station, for a biomass co-firing station or unit seeking a CfD for full biomass conversion, and for an offshore wind station seeking to register phases within the RO or seeking a CfD for phases not registered in the RO. The self-declaration will be adjusted to meet the specific circumstances of each of those groups.
- 3.11 Government considers that this adjustment to the policy strikes an effective balance: it substantially reduces the burden on operators, Ofgem and the Delivery Body in comparison to the original proposal, while still giving adequate assurance that applicants are complying with choice of scheme policy, and that no capacity will receive financial support from more than one scheme.
- 3.12 **Government confirms that the other eligibility and evidence requirements for applications, and the additional capacity registration process, will remain as set out in the RO Transition Consultation.** Additional capacity added to an RO accredited station after 31 March 2014 will not be eligible for support under the RO unless it goes through the new registration process for additional capacity (or in the case of offshore wind turbines, is registered under the RO phasing arrangements).

- 3.13 There will be no change to requirements for RO preliminary accreditation,<sup>6</sup> but no application for preliminary accreditation of capacity will be accepted after an operator has entered into a CfD or Investment Contract in relation to the station or any part of it (unless the Investment Contract has been terminated for certain reasons relating to State Aid or relating to the issue of Standard CfD Terms and Conditions).
- 3.14 In response to requests for clarification, the Government also confirms that if the administrative checks within the application process continue beyond 31 March 2017, this will not be a bar to accreditation. The requirement in relation to the closure date of 31 March 2017 will be that the generating station or additional capacity has commissioned and an application for RO accreditation has been submitted to Ofgem on or before that date.

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<sup>6</sup> As a technical update, the circumstances in which an application can be made for preliminary accreditation will be updated to include the granting of development consent under the Planning Act 2008.

## 4. Obligation-Setting

**Question 3** proposed a change in the timing of the annual process for setting the level of the RO in the coming financial year.

### Introduction

- 4.1 At present, the Secretary of State sets the level of the RO for the coming Obligation period by 1 October of the preceding year. The final Obligation is based on a detailed assessment of accredited projects likely to generate during the Obligation period, and new build projects that we expect, based on pipeline data and discussions with developers and investors, to commission and generate during the compliance period.
- 4.2 During the transition period, many projects will have the ability to choose whether to seek support under the RO or CfD. This will add to the complexity of estimating the amount of new capacity likely to commission under the RO in the following period, with consequences for the accuracy of the Obligation level if it is set incorrectly. In order to improve the quality of data available to us on the choices that operators make, Government proposed to move the date for setting the level of the Obligation from 1 October of the preceding year to 1 February immediately before the compliance period.

### Main messages from responses

<b>Question 3</b>	
<b>Change to the timing for setting the level of the Renewables Obligation</b>	
Agreed	15
Partially Agreed	3
Inconclusive	3
Disagreed	13
No comment	12

- 4.3 Slightly more than half of those who responded to this question either agreed or partially agreed to move the date for confirming the level of the RO to the February immediately before the following compliance period. Approximately one third of respondents – mostly energy suppliers – disagreed with this proposal and wanted the Obligation level to be announced by October, as now. A small number of responses were inconclusive.
- 4.4 The main reason given for agreeing with the change in timing was greater forecasting clarity for DECC in setting the Obligation, particularly given the added uncertainty around the ability of projects to choose between the RO and CfDs. It was suggested this would lead to more accurate management of Renewable Obligation Certificate (ROC) values. A number of generators who responded stated that it was important that the ROC value was

maintained and it was suggested that moving the Obligation setting process to February should result in more stable and predictable prices.

- 4.5 The main reason for disagreeing with the change in timing was that it would cause adverse effects on consumers. The majority of suppliers who responded said that the RO was one of their significant costs and that they needed a minimum of six months to price the cost into retail tariffs. Suppliers would need to rely on their own internal RO forecasts when pricing supply contracts. This would entail adding a risk premium leading to higher energy bills. No estimate was provided on the level of increases that might result.
- 4.6 Several respondents also stated that moving the date would shorten the period in which suppliers could negotiate contracts with customers. This would reduce the availability of fixed price contracts for businesses in particular. A number of generators favoured retaining the October date because it enabled them to determine their likely income from ROCs with greater certainty.
- 4.7 A small number of respondents expressed no firm view either way, saying that whilst a February date would increase accuracy in setting the Obligation, it would also increase costs to consumers. It was also suggested that a later date would mean no room for a delay in the Obligation setting process.
- 4.8 We received a number of proposals for alternative dates for setting the Obligation. One suggestion was to set the Obligation in June because October was already later in the year than was ideal, as the majority of contracts run from October to September. Another alternative suggestion was to bring forward the announcement to April of the preceding year to give suppliers enough time to factor in change for the following compliance period. One respondent mentioned December as the optimum point for setting the Obligation, while others proposed setting an indicative level in October before confirming the final level in February as a way of mitigating the risk of uncertainties in tariffs. It was suggested that this would give suppliers sufficient foresight to allow contract negotiations whilst allowing DECC to receive further information about the intentions of operators. More regular updates on indicative levels were also mentioned as being useful.

## Post-consultation decision

- 4.9 **The Government has decided not to proceed with the proposed change, but to continue to set the level of the Renewables Obligation by 1 October each year, six months ahead of the following compliance year.**
- 4.10 While we recognise that a significant proportion of respondents supported moving the date for setting the annual Obligation level from October to February, most did so on the basis that the rationale put forward by the Government seemed sensible and would result in more accurate Obligations, or that the change would not affect them directly. Several others agreed to our proposal without giving reasons for their support.
- 4.11 However, we note the caution expressed by the vast majority of respondents who disagreed with our proposal: that announcing the Obligation level only two months before the start of the compliance period would create uncertainty around the accurate setting of consumer tariffs, and that this could lead to higher consumer bills.

- 4.12 The Government is committed to minimising the impact of its policies on consumers. In view of the clear indication that changing the Obligation to February could have adverse consequences for consumers, we have decided that it would be inappropriate to proceed with the proposed change.
- 4.13 Publishing an indicative or preliminary Obligation level in October based on the best available information at the time, followed by confirmation of the final Obligation in February, as some respondents have suggested, might help to mitigate these risks. However, this approach would not be feasible as the Obligation setting exercise involves a detailed bottom up analysis of the deployment pipeline, and already requires the allocation of considerable Government resource.
- 4.14 We also received suggestions to announce the level of the Obligation earlier than October, with June and April mentioned. While this might give earlier certainty to suppliers and generators, we do not consider that this would enable us to set the Obligation on the basis of the most up to date information. This could result in the Obligation being set incorrectly, with unexpected consequences for the ROC market, and suppliers' and generators' calculations, during the following compliance period. We therefore do not agree that these proposals offer a viable alternative.
- 4.15 In reaching our decision, we acknowledge the value that stakeholders attach to accurate and reliable Obligation setting. We therefore intend to work closely with developers, the CfD Delivery Body and Ofgem on future Obligation setting exercises to ensure that we predict the capacity that deploys under the RO during the transition period as accurately as possible.

# 5. Dual Scheme Facilities

**Question 6** asked for views on the metering and fuel measuring requirements proposed for Dual Scheme Facilities.

## Introduction

- 5.1 Once the CfD becomes available, operators of RO accredited stations may be able to apply for a CfD (subject to meeting the eligibility criteria) for additional, separate capacity of over 5MW (as long as it does not constitute part of their originally accredited capacity). If successful, those stations will then become Dual Scheme Facilities, with some capacity accredited under the RO and some supported by a CfD.
- 5.2 The provision allowing RO operators to convert biomass co-firing units to full biomass firing under the CfD means that stations taking up this approach could also become Dual Scheme Facilities.
- 5.3 The provision allowing RO operators of offshore wind stations which are phasing under the RO to apply for a CfD for phases which are not yet commissioned and registered under the RO means that such stations could become the equivalent of Dual Scheme Facilities, however, they would be subject to CfD phasing rules rather than CfD Dual Scheme Facility rules. The rationale for this policy is set out in the CfD metering policy for phased projects and will be published in Spring 2014<sup>7</sup>.
- 5.4 In the RO Transition Consultation, Government proposed that operators of Dual Scheme Facilities (referred to in the consultation document as 'dual scheme plants') would be expected to treat the capacity in each scheme as distinct and separate. This would ensure that the ROCs or payments provided under each scheme were provided only in respect of generation from the capacity supported by that scheme. Keeping capacity distinct and separate would therefore require separate comprehensive metering and fuel data arrangements, to be determined for the RO and CfD in parallel.

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<sup>7</sup> <https://www.gov.uk/government/policy-advisory-groups/contracts-for-difference-expert-sub-group-on-metering>

## Main messages from responses

Question 6 Metering and Fuel Measuring Requirements for Dual Scheme Facilities	
Agreed	21
Partially Agreed	8
Inconclusive	1
Disagreed	3
No comment	13

- 5.5 Respondents who agreed or partially agreed with the proposed policy stated that it was important to ensure the renewable generation associated with the capacity under each scheme was accurately captured. However, respondents expressed varying opinions as to the degree of accuracy required: some deemed the proposed requirements to be over-rigorous, and others considered them not rigorous enough. A number of respondents also expressed the view that the proposed metering requirements were disproportionately expensive and difficult to implement, while others stated that although the requirements could be expensive, they considered that this expense was justified.
- 5.6 Several respondents proposed that the metering requirements and, in the case of dedicated biomass with CHP and biomass conversion stations, the fuel measurement and sampling (FMS) system currently utilised within the RO should be replicated for the CfD. Some respondents also considered that it would be appropriate to hold audits of fuel usage at Dual Scheme Facilities.
- 5.7 A number of respondents were content with separate metering for output electricity, but expressed the view that it should be possible to apportion or pro-rate the input electricity utilised for the capacity in each scheme. This was because they considered that some forms of input electricity used by shared services could not be metered separately, such as the cooling systems for biomass firing units.
- 5.8 Several respondents requested that the proposal and any other alternative proposals for Dual Scheme Facilities be discussed at the CfD Expert Group on Metering, or noted that their views were in part dependent on receipt of further information on the detailed CfD metering provisions.

## Post-consultation decision

### Metering

- 5.9 **The Government confirms its intention to require net electricity generation and fuel usage in the RO and CfD schemes at Dual Scheme Facilities to be kept distinct and separate.**
- 5.10 For the RO capacity, we confirm that this will involve the following, as proposed in the RO Transition Consultation:



- a. Metering the RO output electricity separately, or metering the non-RO output electricity separately and deducting it from the electricity metered for the whole station;
  - b. Calculating the RO input electricity on a pro-rata basis;<sup>8</sup>
  - c. Providing separate fuel data for the RO output electricity.
- 5.11 Due to the differences between the overall RO and CfD systems, it has been necessary for Government to develop detailed and specific metering provisions for the CfD capacity at Dual Scheme Facilities. The increased detail now available on CfD policy means that it is now possible to be more explicit on the operational requirements on Dual Scheme Facilities than at the time of publication of the RO Transition Consultation.
- 5.12 Taking the RO and CfD provisions in combination, we confirm that operators of Dual Scheme Facilities will be required to ensure that:
- a. All CfD capacity is fitted with separate input-output meters, which are consistent with detailed CfD provisions;
  - b. Generation from RO capacity is either metered separately or deducted from net generation at the station;
  - c. A station's electrical inputs used for services shared across all capacity at the station are pro-rated in line with both the RO and the CfD requirements.
- 5.13 We do appreciate the concerns that some respondents raised about the additional expenditure required to install meters, and the administrative requirements associated with keeping capacity separate and distinct in this way. However, as some respondents also noted, Government strongly believes in the importance of ensuring renewable generation is only supported under the scheme to which the capacity which has produced that generation belongs. We believe these requirements are necessary for this reason. It is also worth noting that any currently accredited RO capacity at a Dual Scheme Facility will already have adequate metering for recording input and output electricity under RO provisions, therefore the only additional requirement on operators will be the meters and systems necessary to ensure that the CfD capacity is distinct and separate.
- 5.14 The metering requirements for offshore wind farms with some phases in the RO and some in the CfD are set out in **Section 9** of this document.
- 5.15 Given the significant differences between the way in which the two schemes operate in terms of the form of financial support, the timetable for the allocation of support, and the relationship to the wholesale price, and the fact that the length of support for the capacity in each scheme is different, preventing arbitrage opportunities between the two schemes, and ensuring accuracy, is crucial to minimise the impact on consumer bills.
- 5.16 Generators should note that with respect to Dual Scheme Facilities, the CfD separately deducts the two main forms of input electricity (i.e. imported and generator-produced

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<sup>8</sup> The RO also provides the option of separate metering of input electricity solely used for non-RO capacity or separate metering of all the input electricity used for the RO capacity.

electricity) rather than aggregating all forms of input electricity, as is currently applied under the RO.

- 5.17 Generators should also note that CfD metering requirements specifically require generator-produced input electricity to be metered but allow imported input electricity to be apportioned. This apportionment is undertaken in two steps:
- a. Initial pro-rating on the basis of installed capacity supported by the CfD (or IC);
  - b. Recalculation of the pro-rated amount based on the results of verified Fuel Data once this becomes available (as set out in the CfD FMS Procedures).
- 5.18 Full details on the CfD metering requirements are set out on the CfD Expert Group on Metering webpage<sup>9</sup>. Government considers that the CfD and RO metering requirements for Dual Scheme Facilities, while slightly different, can still operate effectively alongside one another. However, further consideration is being undertaken whether it is both possible and desirable to adjust the RO requirements on input electricity in line with those under the CfD.

## Fuel Data

- 5.19 The fuel data provisions for RO capacity within Dual Scheme Facilities will remain as set out for RO capacity in general, although fuel use in RO capacity will need to be distinguished from fuel use in CfD capacity. Similar provisions will apply to CfD capacity. Fuel data relating to the CfD will be collected and submitted to the CfD Counterparty in parallel to that submitted under the RO, but with a clear segregation of the type, quantity and properties of fuel used for each scheme. Further detail on the CfD fuel data arrangements are set out in the December publication of CfD terms.<sup>10</sup>

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<sup>9</sup> <https://www.gov.uk/government/policy-advisory-groups/contracts-for-difference-expert-sub-group-on-metering>

<sup>10</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/267649/Generic\\_CfD\\_-\\_Terms\\_and\\_Conditions\\_518596495\\_171\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/267649/Generic_CfD_-_Terms_and_Conditions_518596495_171_.pdf)

## 6. Small-scale Additional Capacity

**Question 7** requested views on the proposal not to offer support to additional capacity at RO accredited stations that was less than 5MW in size, and was added after 31 March 2017.

### Introduction

- 6.1 The intended closure of the RO to new capacity on 31 March 2017 means not only that new generating stations will no longer be able to apply for RO accreditation after that date, but also that additional capacity at an RO station which is added after that date will not be able to realise support under the scheme.
- 6.2 In the RO Transition Consultation, we proposed that operators would be able to apply for a CfD for additional capacity of this sort if that additional capacity constitutes more than 5MW, and is sufficiently distinct from the existing accredited capacity to meet the metering requirements detailed in **Section 5**.
- 6.3 We further proposed that additional capacity which did not meet these criteria would not be eligible to seek support either under the CfD or under the small-scale Feed-in Tariff (ssFIT). Therefore no financial support option would be open to <5 MW additional capacity at an RO accredited station after 31 March 2017.

### Main messages from responses

Question 7	
No support for new additional capacity below 5 MW after 31 March 2017	
Agreed	9
Partially Agreed	0
Inconclusive	0
Disagreed	21
No comment	16

- 6.4 A number of respondents objected to this proposal on the grounds that no longer offering support for small-scale additional capacity would disincentivise that additional capacity, in particular in the case of Solar PV, Advanced Conversion Technologies (ACT) and Sewage Gas. However, very little evidence relating to actual or planned additional capacity which would be affected by this policy was provided. The specific examples that were provided related primarily to small projects being developed on an incremental basis.
- 6.5 Some respondents indicated a preference for providing support for this additional capacity under the ssFIT, some for providing support under the CfD, and some preferred a

combination of both. Some respondents indicated that all support mechanisms should be open to additional capacity at any size, and that operators should have a choice of scheme, to be made on their own projects' economic circumstances. Further respondents emphasised the need for support of some kind without expressing a view as to the scheme under which it should be provided.

- 6.6 Some respondents accepted the proposal on the basis that support would be available for this capacity under the ssFIT if it could be regarded as a separate generating installation, or requested clarity on this point. Several respondents also noted that the fact that operators will be able to apply for RO registration of additional capacity until 31 March 2017 ensures that all currently planned additional capacity has time to enter the RO, and agreed to the policy on that basis.
- 6.7 Some respondents sought clarification as to whether the policy would prevent operators being able to benefit from increased renewable generation resulting from efficiency gains by increasing the number of ROCs they are able to claim. Others asked whether, if a generating unit were to be replaced with a higher-capacity unit, or if they were to make changes which increased the efficiency of a unit without increasing capacity, the resulting generation would be pro-rated in relation to the previous accredited capacity.

## Post-consultation decision

- 6.8 **The Government confirms its intention not to offer support for additional capacity of 5 MW or less added to RO accredited stations after 31 March 2017.** This is primarily because there is no proportionate and viable mechanism for providing support to this additional capacity that is consistent with overall transition policy.
- 6.9 The mechanisms at which Government looked in taking this view are:
- a. The Renewables Obligation;
  - b. The small-scale Feed-In Tariff;
  - c. The Contract for Difference.
- 6.10 Firstly, the Renewables Obligation (RO). Offering support for this capacity under the RO would be straightforward to implement and in line with previous practice. However, it is Government's view that to allow operators of existing RO stations to gain RO support for new additional capacity at those stations after RO closure would compromise closure arrangements and undermine the transition to the Contract for Difference. In effect, it would involve keeping the RO partially open under certain circumstances. Aside from being inconsistent with the overall direction of travel towards EMR, this would be likely to require us to conduct future banding reviews and seek further State Aid approval for the associated support, for the benefit of a very small group.
- 6.11 Secondly, the small-scale Feed-In Tariff (ssFIT). The ssFIT is designed to encourage small-scale generation: tariff levels are designed to cover the cost of small scale installation and provide an appropriate rate of return. It would not prove cost effective for the Government to use the same tariff levels for RO operators seeking to add capacity, and consequently there is no provision for generating capacity to be split across the RO

and the ssFIT. The different design and purpose of the two schemes means that such provision would be both impractical and undesirable.

- 6.12 It is also important to consider that for any RO station with an installed capacity of 5MW or greater, or that is looking to commission additional capacity that will take the total capacity over 5MW, such additions would not be eligible under ssFIT due to the rules of this scheme: all generating capacity using the same low-carbon energy source at the same site must be taken into account, regardless of whether it is ssFIT accredited or not.
- 6.13 Finally, the Contract for Difference (CfD). The dual scheme measures for stations with some capacity in the RO and some in the CfD will require data-sharing and joint administration between Ofgem, the CfD Delivery Body and the CfD Counterparty in order to ensure that generation is kept distinct and separate between the schemes. This data-sharing and joint administration will constitute a resourcing burden on these organisations, which will be covered by consumers as part of scheme costs. This burden is more likely to be proportionate to the number of stations which become Dual Scheme Facilities than to the size of capacity at those facilities. Allowing small-scale additional capacity to take up this option could have a disproportionate administrative impact in relation to amount of additional renewable generation produced. Government does not consider that this would be justifiable.
- 6.14 Although we appreciate that a number of respondents pressed for some mechanism to be found whereby support could be offered to <5MW additional capacity after RO closure, we note that comparatively few of those respondents who made this case had a particular station or possible addition of capacity in view. The points made were for the most part general rather than specific, and we received limited information on developments which would be halted or compromised by this policy decision – in particular bearing in mind that operators who do wish to add capacity at existing stations still have several years in which to take forward additional capacity of any size, prior to the RO closure date. **Section 8** on grace periods also confirms that additional capacity of any size will be eligible for a 12 month grace period if it suffers from grid connection or radar delays.
- 6.15 Moreover, the Government considers that the majority of stations that currently have RO accreditation will have been deployed to their designed maximum capacity, primarily based upon their original grid connection capacity. To date, the most frequent technology to add capacity was landfill gas, and this technology is now not eligible for support under the England/Wales Order for new generating capacity (except in the case of closed landfill gas and landfill gas heat recovery). Additionally, many of these stations are seeing gas reserves depleting, leading to a decrease, rather than increase in installed capacity.

### Clarification

- 6.16 This policy applies only to <5MW additional capacity at RO accredited stations. A number of respondents asked for further detail about what constitutes additional capacity, and asked for clarity on any circumstances in which forms of additional capacity might still be eligible for the ssFIT or CfD.
- 6.17 It is for Ofgem, as the administrator of both the RO and ssFIT schemes, to determine what constitutes an eligible installation, a generating station, additional capacity, or an extension. It would be for the Delivery Body to make the same determination in respect of

an application for a CfD for such capacity, and they would be likely to share data with Ofgem in making that determination.

- 6.18 As is current practice, Ofgem will assess applications to accredit new generating stations or to register additional capacity at existing RO stations on a case by case basis. Ofgem has previously developed guidance as to the factors they will take into account when determining the bounds of a generating station, which can be found on the Ofgem website.
- 6.19 In order for sub-5MW wind, solar, hydro or Anaerobic Digestion (AD) capacity to realise support under the ssFIT, applicants would have to demonstrate to Ofgem by formal application that new generating capacity that is to be commissioned in the vicinity of an RO accredited generating station can be regarded as a separate eligible installation under ssFIT. In making such a determination Ofgem will assess the site of the installation and take into account, amongst other factors, the nature of the grid connection arrangements and any electrical/mechanical interactions between the new and existing generating capacities.
- 6.20 The other main issue on which clarification was requested was the meaning of the policy for refurbishment or efficiency gains at RO accredited stations. The Government would like to clarify that the closure of the RO to new capacity means that where there is an increase in capacity resulting from station refurbishment or unit replacement after the closure date, that increase in capacity will not be eligible for support under the RO.
- 6.21 If the new capacity is higher than the original capacity accredited or additional capacity registered as at 31 March 2017, then the existing RO apportionment rules will apply, and the operator will be entitled to ROCs for the generation that can be deemed to have been generated from the capacity accredited or registered as at 31 March 2017.
- 6.22 In relation to the question raised by some respondents on efficiency gains, Government recommends that operators refer to the relevant Ofgem guidance, or seek advice from Ofgem on how that guidance might apply to their specific circumstances.

# 7. Closure Arrangements

**Question 8** set out the Government’s proposed approach to grandfathering at the RO closure date, including restrictions on the way in which biomass co-firing stations would access different bands.

## Introduction

7.1 Government’s proposal within the RO Transition Consultation was two-fold. Firstly, to grandfather low-range co-firing at the support rate applicable on 31 March 2017. Secondly, to restrict the way in which biomass co-firing stations can access different support levels, by requiring them to confirm their main support level, and allowing them access just to that level and those immediately adjacent to it (e.g. a co-firer could confirm that its support level would be medium-range co-firing, and access low-range and high-range instead when its fuel usage falls within those bands).

## Main messages from responses

Question 8 Grandfathering at specific support bands	
Agreed	24
Partially Agreed	0
Inconclusive	7
Disagreed	2
No comment	13

7.2 Those who agreed were supportive of the general policy of grandfathering and felt it was vital that all currently grandfathered technologies continued to be grandfathered following closure of the RO. No specific comments, however, were made on the inclusion of low-range co-firing within the grandfathering policy.

7.3 A number of respondents indicated that they were broadly content with the proposals to restrict biomass co-firers to certain bands after RO closure, stating either that they expected the process to be straightforward, or that it would be important for there to be a simple and clear process for registering for a specific support band.

7.4 There was widespread misunderstanding of what the proposals to restrict biomass co-firers meant in practice, and there were various requests for clarification. The key misunderstandings were that:

- a. The technology-specific rates of support available on 31 March 2017 would be applied to all plants operating under the RO scheme at that time, including those already covered by the pre-existing grandfathering policy;
- b. The proposals to put restrictions on biomass co-firing at different bands would apply to all fuelled stations rather than only to biomass co-firers.

7.5 The requests for clarification included:

- a. Whether a plant falling outside of its band or adjacent band would continue to receive support if the reason for the change was outside the operator's control;
- b. Whether the relevant ROCs/MWh would be grandfathered for all three bands that were appropriate to the operator i.e. an operator that accredited as a high-range co-firer would be eligible for grandfathered ROCs if the necessary requirements were met for low-range or conversion bands;
- c. What was meant by 'nominated band' and 'a band for the same technology which is directly adjacent'. It was suggested that it was not clear which technology bands were adjacent.

7.6 Some concerns were expressed about the negative effect the proposals would have on existing biomass plants. Respondents pressed for full flexibility to be maintained, because investment decisions in relation to existing RO accredited plants had been made on the expectation of full flexibility. Other respondents indicated that the proposals were insufficiently robust, as fuelled stations already had too much flexibility and should be required to grandfather at a specific band with no movement allowed. Some respondents suggested that stations should be able to register for a band at which they had not previously fired, to facilitate a move to full conversion after the RO has closed to new capacity.

7.7 It was suggested that if the primary reason for the proposal was stability of the RO budget, then budget predictions should be on the basis of the highest support level, in the knowledge that usage may in practice be lower than that. Operators could then retain the full flexibility currently available to them under the RO.

## Post-consultation decision

7.8 **The Government has decided that the grandfathering policy should be extended to include the low-range co-firing band as of 31 March 2017 at the support rate applicable on that date.** This will allow us to vintage this technology in the same manner as the other co-firing bands, and will provide advantages in terms of administration and consistency during the transition period.

7.9 The Government would like to clarify that the proposals within the consultation related only to the three biomass co-firing support bands and the biomass conversion band. They did not relate to other circumstances in which fuel forms are subject to slight variation, e.g. Energy from Waste and Dedicated Biomass. The Government would also like to clarify that the proposals were not intended to suggest any change to support levels within each band, or to adjust the current approach to wider grandfathering arrangements in relation to those support levels. The grandfathering rules for when support levels change, set out in



the October 2012 factsheet, will remain unchanged. The proposals and policy decision here relate only to the extent to which biomass co-firers will be entitled to fire at different bands after RO closure.

- 7.10 Following careful assessment of consultation responses, the Government has concluded that the policy previously proposed was too confusing and administratively complicated to take forward. We also note that it would have had little genuine impact in terms of budgetary stability, as in practice the majority of biomass co-firers would still have had a significant degree of flexibility to shift between support bands.
- 7.11 **The Government has decided not to require operators of biomass stations to choose a co-firing band in which they expect to receive support beyond 31 March 2017, as was proposed within the RO Transition Consultation.**
- 7.12 **That said, the Government continues to believe that a mechanism to increase stability across the biomass co-firing and conversion bands, and to ensure budgetary predictability and control within the RO, will be required.** We may consult on proposals for such a mechanism later in the spring or summer.

## 8. Grace Periods

**Question 9** of the RO Transition Consultation set out the principles on which Government proposed to determine grace period arrangements for the closure date. On the basis of the responses to **Question 9**, Government published a further consultation proposing detailed arrangements for grace periods on 7 November 2013.

### Introduction

- 8.1 In the RO Grace Periods Consultation, Government proposed four separate grace periods covering four different challenges which projects might face in relation to the RO closure date, as follows:
- a. 12 month grace period to address radar and grid connection delays, where the project was scheduled to commission on or prior to 31 March 2017;
  - b. 12 month grace period for projects which have signed Investment Contracts under FID Enabling, should these contracts fall away or be terminated under certain specific circumstances;
  - c. 12 month grace period for projects able to demonstrate that substantial financial decisions and investments have been taken prior to 31 July 2014, where the project is scheduled to commission on or prior to 31 March 2017. To be eligible these projects will have to undergo a notification process by 31 July 2014;
  - d. 18 month grace period for projects allocated a place under the 400MW dedicated biomass cap.
- 8.2 Detailed policy decisions on the eligibility and process arrangements for each of these grace periods are set out below. Government would like to clarify that operators will not be able to access two or more of these grace periods either simultaneously or consecutively for the same project.
- 8.3 If eligible for more than one of the grace periods set out below, operators will be entitled to choose which grace period best meets their needs and circumstances, subject to the detailed eligibility criteria and any application requirements or timeframe for each grace period. In particular, if an operator were to apply for the grace period designed to enable financial decisions, which has a notification deadline in 2014, and were unsuccessful in applying for that grace period, he/she would still be able to seek access to the grace period for grid connection or radar delays at a later date, subject to the eligibility criteria for that grace period.
- 8.4 All grace periods will run for their stated length starting from the day after the RO closure date. A project which meets the grace period criteria will be able to gain RO accreditation within the grace period, provided that it applies for accreditation and commissions before the end of that grace period. Projects will be able to claim ROCs from the point at which

accreditation is received, subject to all the usual rules of the RO scheme. Eligibility for a grace period does not presuppose eligibility for RO accreditation, which will be subject to all the usual application and eligibility requirements.

8.5 The table at **Annex C** summarises the terms of each grace period, and the rationale for these terms on the basis of an assessment of consultation responses is set out within the rest of this section. The table at **Annex D** sets out the grace periods for which projects within each RO support band are eligible to apply. Again, the rationale is set out within the rest of this section.

## Grid Connection and Radar

### Introduction

8.6 Within the RO Grace Periods Consultation we proposed that there should be a 12 month grace period for projects due to commission before 31 March 2017, which are then delayed due to radar or grid connection problems. This opportunity would be open to additional capacity at existing RO accredited stations, as well as to new stations.

### Main messages from responses

Question 1 12 month grace period for delays caused by grid connection or radar problems	
Agreed	21
Partially Agreed	10
Inconclusive	2
Disagreed	5
No comment	11

8.7 The majority of respondents were broadly content with the proposal welcoming the extension to 12 months which they felt was appropriate given that the grace period related to the closure of the RO scheme itself. It offered developers more flexibility and greater security. The proposal to apply the grace period to both new and additional capacity was also welcomed.

8.8 There were respondents who welcomed the proposal in principle but felt that it should either be extended in time or widened in scope. The main reasons given were:

- a. Radar approvals are being delayed by more than 12 months;
- b. A period of 18 months was preferable to cover all eventualities;
- c. A period of 24-36 months was required because the problem of lack of readily available grid connection is getting worse because grid reinforcement is not keeping pace with demand;

- d. The scope should be extended to cover other scenarios where the delay is not attributable to the developer: in other words, it should cover all matters considered to be Force Majeure.
- 8.9 Some respondents were concerned about the documents required to demonstrate eligibility, specifically with the need to provide a signed grid connection agreement with a grid connection date. It was suggested that these documents were often not available until very late in the process or actually not signed until after commissioning, when the plant is in commercial operation. One respondent suggested that applicants should only have to demonstrate that the works had been agreed with a scheduled delivery date prior to 31 March 2017. Another respondent noted that administering the Banding Review grace period had been challenging because no one document functioned as a 'grid connection agreement', and that such documents rarely specified a date. This respondent suggested documents that would enable better demonstration of eligibility.
- 8.10 A couple of respondents were concerned about those sites that were most severely affected by grid delays (wind farms in Wales were cited as examples) and suggested that in such cases they should be able to pre-accredit under strict criteria and gain assurance of eventual accreditation on that basis.
- 8.11 Those who disagreed with the proposal believed that the grace period should be widened to cover all 'unforeseen circumstances', with some suggesting that responsibility to prove that the delays were unpredictable and out of their control should lie with the developer. The length of the grace period was also considered insufficient and suggestions of 18 and 24 months were made. The main reasons given were:
- a. Connection delays associated with large scale grid upgrades across the UK where embedded generation cannot generate until at least 2018;
  - b. Multiple or complex grid updating or aviation solutions where 24 months would be more appropriate.
- 8.12 A number of those who disagreed with the length of the grace period felt that the 2037 RO cut-off date was sufficient to keep any delay to a minimum. One respondent suggested that there should be no time limit at all and that the grace period should be linked to the removal of the constraint delaying commissioning. So if there was a 24 month delay to a project then this respondent thought that the developer should have a 24 month grace period and also get the equivalent of a full 20 years term of support.

### Post-consultation decision

- 8.13 **The Government has decided to introduce a 12-month grace period for radar or grid connection delays. This will apply to both new and additional capacity.** The Government acknowledges that there will be longer delays than 12 months, but the grace period has been designed to meet the majority need during the limited transition period from the RO to the CfD. The Government considers that other suggested causes of delay are part of normal business risk, which the developer would be expected to manage. We do not consider that special treatment is warranted for those developers who have already been subjected to severe delay, such that their projects' commissioning dates have been delayed to beyond the RO closure date. These developers have been aware of the planned closure date for several years and have had the opportunity to take that into

account when dealing with the delays they have been experiencing. These developers will also retain the option of applying for a CfD.

8.14 **The Government considers that evidence of a grid connection agreement does not need to be provided in a single document. It can be demonstrated by providing the following pieces of evidence in combination:**

- a. A grid connection offer;
- b. Acceptance of that offer;
- c. A letter from the network operator which estimated or set a date no later than 31 March 2017 for delivery of the connection.

8.15 Operators will also need to supply a written declaration and a letter from the network operator, which will be similar to the requirements under the grace period provisions introduced for the recent RO Banding Review. The evidence required for radar upgrade grace periods will also be similar to the requirements for the grace periods at the RO Banding Review.

## Investment Contracts

### Introduction

8.16 Within the RO Grace Periods Consultation, we proposed that there should be a 12-month grace period for projects which have signed Investment Contracts under FID Enabling, should these contracts fall away or be terminated under certain specific circumstances. These circumstances were limited to lack of State Aid approval, but we indicated that consideration would be given if other areas of uncertainty in the Investment Contract were highlighted.

### Main messages from responses

Question 2 12 month grace period for signatories of Investment Contracts	
Agreed	12
Partially Agreed	13
Inconclusive	1
Disagreed	0
No comment	23

8.17 This proposal was welcomed by the majority of respondents, given the uncertainties with State Aid clearance, which were deemed to be significant and out of the developers' control. One respondent specifically agreed that the circumstances should be limited to the lack of State Aid, and that this should be defined in the terms to be set within the Investment Contract. There were several comments about the risk of delay to, rather than

lack of, State Aid approval. This was considered a major risk which could cause an investment hiatus. It was suggested that a time limit needed to be introduced, so that if State Aid approval had not been obtained by a certain date then generators would be given the option to withdraw from the Investment Contract and access the RO, and that this should be built into RO regulations and the terms of the Investment Contract.

- 8.18 Some respondents welcomed the grace period but felt that it should be extended to include:
- a. Delays in State Aid approval. It was also suggested that any State Aid delay beyond a pre-determined date should deliver an extension of an Investment Contract project's Significant Financial Close and Target Commissioning Window on a day-for-day basis;
  - b. Any instance where a signed Investment Contract falls away or is terminated as long as it is not caused by the fault of the generator;
  - c. Delay/failure of those aspects of the EMR delivery timetable related to an Investment Contract and which are not the fault of the generator;
  - d. Projects which applied for an Investment Contract but revert back to the RO for not meeting the Investment Contract criteria due to subsequent project changes which mean the Investment Contract criteria can no longer be met;
  - e. Any delays to secondary legislation or Parliamentary approval of Investment Contracts.
- 8.19 Several respondents suggested that an alternative option to this grace period would be to extend the RO in the event of delays or lack of State Aid clearance for Investment Contracts or CfDs.

### Post-consultation decision

- 8.20 **The Government has decided to introduce a 12 month grace period for projects which have signed Investment Contracts under FID Enabling, should these contracts fall away or be terminated for reasons relating to State Aid.** This provision has also been reflected in the Investment Contract terms, delivered to applicants in December 2013, by way of a day for day extension to the key dates of the Investment Contract, for example the Target Commissioning Window and Longstop Date. It covers termination due to delay in State Aid approval, refusal of State Aid approval or conditions attached to State Aid approval.
- 8.21 Having considered other circumstances where the Investment Contract falls away or is terminated through no fault of the generator, **the Government feels that it is appropriate that, where an Investment Contract includes a right for the generator to terminate if changes are made or proposed to the Investment Contract in the light of standard CfD terms issued by the Secretary of State then, if the termination right is exercised, a generator should also be able to access this grace period.**

- 8.22 To assist with the administration of the grace period, evidence in the form of a letter from DECC will be required confirming that an Investment Contract was held by the signatory and has been terminated under the circumstances set out above.
- 8.23 The Government does not perceive that it is necessary for generators to access this RO grace period under other circumstances, such as delays in passing secondary legislation for the EMR enduring regime, as Investment Contracts are, by design, operable in the absence of this legislation.
- 8.24 The above policy decisions are predicated in part on the assumption that the CfD and Investment Contract will be put in place on the timetable and design that DECC has set out in EMR publications so far. Were that timetable or design to be subject to very significant changes, then Government could re-evaluate grace period policy for projects with Investment Contracts depending on the detailed circumstances at the time.

## Enabling Financial Decisions

### Introduction

- 8.25 In the RO Grace Periods consultation, this grace period was titled 'Further Steps to support Investment Decisions prior to CfD Introduction'. We proposed this grace period in recognition of the fact that some operators are already developing projects which are scheduled to commission close to the RO closure date. Such operators are already expending funds and making decisions to continue development of these projects. However, in some cases they consider themselves unable to move forward to full financial closure and commitment to the project, as they do not yet have full detail on CfD terms or assurance of CfD support, and if they were to be subject to delay of any sort, they would run the risk of missing the RO closure date.
- 8.26 In order to give these operators sufficient assurance to move forward towards Final Investment Decisions in advance of full clarity on the CfD, we proposed a grace period with the following key characteristics:
- a. A deadline of 31 July 2014 for notifying Ofgem of a project's interest in this grace period;
  - b. The indication that Government might consider limiting access to the grace period on the basis either of project size or of technology; and
  - c. A requirement that projects present evidence to Ofgem demonstrating the feasibility of grid connection by 2017, showing that they have planning permission and land rights, and demonstrating a certain degree of progress towards final investment decision. The detailed proposals for this evidence were set out in paragraph 2.17 of the consultation document.

## Main messages from responses

<b>Question 3</b> <b>12 month grace period targeted at developers making investment decisions by 31 July 2014</b>	
Agreed	9
Partially Agreed	29
Inconclusive	2
Disagreed	4
No comment	5

8.27 The majority of respondents welcomed this grace period in principle, and supported the policy intent to support projects working towards a Final Investment Decision. One respondent noted that the design 'sends the right signal to investors'.

### Length

8.28 Most respondents who commented on the length of the grace period took the view that 12 months was a suitable length, and noted that the level of risk to projects that miss the closure date was such that a six months grace period was clearly insufficient. A few respondents suggested 18 months or more, stating that the erosion of the 20 year term was sufficient to incentivise minimal delay. Other respondents proposed that the term should not in fact erode and the final RO end date (2037) should instead be extended, to protect projects from the impact of delays due to Force Majeure.

### Deadline

8.29 However, many respondents challenged the proposal that the deadline for applying for this grace period should be 31 July 2014. In particular, respondents noted Government's intent to align this deadline with the introduction of CfD legislation, and stated that since CfDs will not open to applications until mid-autumn, a later deadline would be more appropriate. Such respondents sometimes also suggested that the deadline should be aligned to CfD introduction, instead of a fixed date being set at this stage – they propose that this would allow the deadline to be extended alongside CfD introduction, if the latter is itself delayed. Other respondents who supported the link between this deadline and CfD introduction proposed a range of specific deadlines between 30 September and 31 December 2014.

8.30 A number of respondents suggested that the deadline should be set a few months after the introduction of CfDs, on the grounds that CfDs will not facilitate investment decisions on specific projects until those projects receive offers of a CfD, so the grace period would still be important to prevent investment hiatus. Such respondents suggested deadlines between 31 December 2014 and 31 March 2015. Some respondents also suggested that a later deadline for this grace period could increase early CfD take-up, since developers would have a 'safe space' in which to attempt to get financing on the basis of a CfD, knowing they could still apply for the RO with this grace period.



- 8.31 Other respondents proposed that the deadline be determined by working back from 31 March 2017, instead of being linked to CfD introduction. Such respondents assessed the average construction time of a project from the point of financial close to commissioning date to be 24 months, and proposed that the deadline for the notification process be set at 31 March 2015, in order to allow all ‘average’ projects aiming to accredit under the RO time to access the grace period.
- 8.32 A couple of respondents suggested that there should be more than one deadline, open to projects with different development and construction timetables – for example, a 2015 deadline for projects with long development times, and a 2016 deadline for projects with shorter development times.

### Eligibility

- 8.33 Twelve respondents specifically noted their disagreement with the possibility of a size threshold for access to this grace period. Those challenging the possibility of a size threshold note that smaller developers are often less able to absorb delays, and therefore have greater need of grace period protection. They pointed out that developing technologies such as ACT are likely to take the form of smaller scale projects, and will still have long development and construction periods due to their relatively untested nature. Another respondent was concerned that a size threshold would distort competition by favouring larger projects, and suggested that smaller projects were being discriminated against. Some respondents pointed out that a project might apply for the grace period at 60MW, and then its size might reduce during the development process e.g. to 45MW. This would make fair implementation of a size threshold for access to the grace period challenging, without opening it up to gaming.
- 8.34 Six respondents also opposed the possibility of a technology limit for access to this grace period. In contrast, a couple of respondents specifically suggested that the grace period should be limited by technology, as they considered that this would be a proportionate and straightforward way to offer the grace period only to projects that need it most. One respondent noted that a technology limit, if imposed, should not exclude less developed technologies such as ACT from this grace period.

### Evidence

<b>Question 4</b>			
<b>Evidence Proposals for Enabling Financial Decisions Grace Period</b>			
	<b>Land and Planning Evidence</b>	<b>Grid Connection Evidence</b>	<b>Financial Evidence</b>
Agreed	18	18	13
Partially Agreed	0	0	0
Inconclusive	0	2	1
Disagreed	16	15	22
No comment	15	14	13

- 8.35 A majority of respondents either agreed with the proposed forms of evidence relating to land, planning and grid connection, or suggested minimal adjustments to those evidence

forms. Those who agreed gave the view that the proposed evidence forms were proportionate and appropriate to the policy intent, and supported them in full. The main adjustments proposed included:

- a. Changing the requirement for a signed grid connection agreement to a grid connection offer, in acknowledgement of the fact that a signed grid connection agreement involves significant upfront expenditure, which operators would not necessarily be able to make at this stage of project development;
- b. Setting the land use evidence requirements in terms of option agreements securing land rights, rather than signed and executed leases confirming land rights. Again, this was on the basis that signed leases involve a commitment to significant expenditure which would not necessarily be made at this stage of project development;
- c. Requiring outline planning permission or the submission of an application for planning permission, instead of the receipt of full planning consents.

- 8.36 In the first two cases, the main rationale for the proposed change was that this would align better with Government's stated intention that the grace period be accessible to projects which have not yet reached financial close. Respondents indicated that it would not necessarily be possible to provide the proposed evidence forms in advance of making full financial commitment to a project. The rationale for proposed changes to the form of evidence covering planning permission was in some cases the same, and in other cases related to concerns that the deadline for applications to the grace period was too early for projects to achieve planning consents.
- 8.37 A higher proportion of respondents challenged the proposed evidence forms relating to financial decisions and expenditure, and their challenges were also more comprehensive and wide-ranging than those relating to the other evidence forms. The main messages from respondents on financial evidence are described below.
- 8.38 The proposal that projects should demonstrate that 10% of project expenditure had been incurred<sup>11</sup> was considered to be too high for a majority of projects to meet prior to financial close, and too low to ensure that some other projects were genuinely on track to commission by the closure date. Some respondents suggested that this form of evidence be removed, while others suggested the use of 5% rather than 10%, or that a commitment to spend 10% be required, rather than actual expenditure.
- 8.39 Formal Board minutes<sup>12</sup> with a commitment to investment in a project, and/or signed loan or investment agreements<sup>13</sup> were considered to be unsuitable evidence forms for the policy intent underlying the grace period, as it would not be possible to provide either of these in advance of Final Investment Decision. Some respondents suggested alternative forms of evidence, such as Board minutes demonstrating progress towards financial close, or letters from possible investors confirming a commitment to support subject to achieving financial close or gaining access to the grace period. Other respondents suggested removing these forms of evidence entirely.

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<sup>11</sup> Financial evidence form 'i' in the consultation document.

<sup>12</sup> Financial evidence form 'ii' in the consultation document.

<sup>13</sup> Financial evidence form 'iv' in the consultation document.

- 8.40 Financial commitments in relation to part orders<sup>14</sup> were opposed as an evidence form on the grounds that sharing these with Ofgem could conflict with commercial confidentiality, that the overall definition of the evidence form was unclear, and that some aspects of it were unsuited to some kinds of project or would not be feasible prior to financial close. Some respondents suggested that signed Heads of Terms for contracts might be a suitable alternative, and one respondent suggested that the issue of commercial confidentiality could be addressed by employing an external auditor to review the documents and verify their existence to Ofgem.
- 8.41 The proposal of a comfort letter being provided by a project's technical advisor<sup>15</sup> received some support, with some respondents stating that this would be acceptable if an external adviser could be used, as not all operators employ internal advisers. A few respondents suggested that this letter could be expanded into a report which would cover all financial evidence requirements. A couple of respondents opposed this form of evidence as unclear.

### Clarification

- 8.42 A few respondents asked for information on the timeframe on which Ofgem will decide on application for the grace period, suggested deadlines for turnaround (e.g. 14 - 21 days), or requested discussions with Ofgem on the detailed forms of evidence expected and the assessment methodology to be used. Some respondents requested clarification on the meaning of the term 'notification process' in relation to this grace period.

### Post-consultation decision

#### Length

- 8.43 **The Government has decided to offer this grace period for 12 months beginning from 1 April 2017.** Having assessed consultation responses on this issue, we continue to consider that this length should be sufficient to give operators the opportunity to accredit under the RO even if their projects suffer some unexpected delay. Operators who consider that their projects are at significant risk of longer delay will have the opportunity to apply for a CfD as soon as applications for the CfD open in autumn 2014.

#### Deadline

- 8.44 **The Government has decided that the deadline for applications for this grace period will be 31 October 2014.** This is three months later than the deadline proposed in the consultation. We have chosen to align the grace period deadline with the point at which CfD applications are expected to open, in response to the point made by a number of respondents, that the CfD secondary legislation coming into force would not in itself enable operators to plan their projects on the basis of confirmed CfD support.
- 8.45 The Government considered respondents' arguments for a later deadline carefully, and we appreciate that the October deadline will still be in advance of the point at which operators can expect to receive the offer of a CfD, which a number of respondents highlighted as the genuine point at which the CfD will support ongoing investment decisions. However, as this grace period is itself designed for projects which have not yet

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<sup>14</sup> Financial evidence form 'iii' in the consultation document.

<sup>15</sup> Financial evidence form 'v' in the consultation document.

reached financial close at the point of application, we consider that the deadline is best aligned with the point at which CfD applications open, rather than the point at which CfD offers are made. We remain keen to ensure that there is an effective transition towards the CfD as soon as applications open, and consider that a later deadline for the grace period could compromise that transition, as it could give projects which could have applied for a CfD shortly after applications open an incentive to enter the RO instead.

- 8.46 The Government envisages that operators will be able to apply for access to this grace period as soon as the associated secondary legislation comes into force. Our current intention is to put this legislation in force in July 2014. Operators who are ready to do so may then apply to Ofgem for this grace period, subject to the eligibility and evidence requirements below. Ofgem will have the power to assess applications on a case by case basis, and will not be required to wait until after the closure date to respond to applications.
- 8.47 In response to requests for confirmation of the timeline on which Ofgem will consider applications, we would expect that grace period applications will be assessed in a shorter timeframe than applications for RO accreditation. This is on the basis of an expectation that applicants will have read the relevant guidance and legislation in advance of applying and that applications will not be speculative. As with any determination made under the RO, a grace period can only be granted once all necessary criteria have been met. The onus will therefore be on applicants to ensure that the information put forward is as full and complete as possible.

## Eligibility

- 8.48 In paragraph 2.20 of the consultation document, we indicated that ‘depending on the extent to which the proposed forms of evidence can be defined clearly enough to ensure that this grace period is only open to projects which are at clear risk of investment hiatus without it, we might need to reconsider restricting eligibility on a technology or size basis’. As set out in more detail below, defining forms of evidence with sufficient clarity and robustness has proven extremely challenging. **The Government has therefore decided to limit access to this grace period to ACT (i.e. standard and advanced gasification and pyrolysis) and offshore wind projects only, rather than offering it to all RO eligible technologies.**
- 8.49 We acknowledge the points made in response to the consultation on the difficulties that would be associated with an eligibility limit based on project size, and have rejected the option of such a limit on the basis of those responses. In particular, we note that some small projects of less established technologies can take a longer time to develop and construct than much larger projects, and we consider for this reason that a size threshold would have been inconsistent with the policy intent behind this grace period.
- 8.50 We appreciate that a technology limit is also not a perfect solution: some projects of the excluded technologies may be subject to investment hiatus due to their specific circumstances. However, without a technology limit it would be necessary either for us to set complicated, technology-specific evidence requirements for access to the grace period, or to set broader evidence requirements which would allow more projects to access the grace period than genuinely require it. The former option would be likely to be burdensome for operators to comply with, in particular in respect of smaller projects. It would also be likely to considerably lengthen the time which Ofgem would require to assess applications, and the resultant delay would reduce the value of the grace period

for those projects which require it to receive financial backing. The latter option would result in a higher number of projects entering the RO compared to the CfD, which would conflict with the overall aim of transition to the CfD.

8.51 In the RO Grace Periods Consultation we indicated that any technology-specific approach to eligibility would focus on ‘technologies with a greater than average risk of delay’. In order to identify the technologies which should be eligible for this grace period, we looked at the overall risk of delay for the technology overall (rather than for individual projects), setting that risk in the context of the policy intent for this grace period, and the overall policy of transition.

8.52 On this basis we tested the following statements for each RO technology:

- a. Our pipeline assessment demonstrates that there are a number of projects which are in the process of moving towards final investment decision and which would not commission until late in the transition period, but would be able to commission prior to RO closure if they receive access to this grace period;
- b. Those projects constitute a significant proportion of the known pipeline for that technology, and therefore their progress is relevant to the overall learning and development for that technology;
- c. The technology still has the opportunity to reduce costs / increase efficiency on the basis of learning from increased deployment; and
- d. Development and construction periods for that technology are on average and in combination lengthy, making a 2 ½ year transition period less adequate than for technologies which are on average speedier.

8.53 ACT and offshore wind are the technologies which meet this criteria in full, and which can therefore be deemed to have a greater than average risk of delay in relation to the purpose of this grace period. This grace period will not be available for additional capacity as it is targeted at the risk of delay in commissioning and accreditation of new ACT and offshore wind stations.

8.54 Government notes that developments within the offshore wind sector have the ability to deliver great economic benefit to the UK, both in terms of project deployment itself and also through higher levels of UK content in the supply chain. We have been working with developers to achieve these benefits and will continue to do so. In this context, Government invites developers to provide early sight of their plans for the supply chain. (Note that this is not part of the evidence required to be sent to Ofgem for grace period eligibility, which is discussed separately below.)

## **Evidence**

8.55 The Government has decided to require applicants for this grace period to provide Ofgem with four pieces of evidence, as follows:

- a. A grid connection offer, accompanied by a letter from the network operator estimating or setting a date for the grid connection which is on or before 31 March 2017;

- b. Relevant planning consents i.e. planning permission under the Town and Country Planning Act 1990, consent under section 36 of the Electricity Act, or development consent under the Planning Act 2008;
- c. Land availability evidenced by land use rights, or an options agreement for land use rights, or, for offshore projects, a signed agreement for Lease with the Crown Estate;
- d. A Director's Certificate confirming that the developer will have sufficient resources to commit to the project and that the project is expected to commission on or prior to 31 March 2017, subject to receiving confirmation of eligibility for this grace period.

8.56 The first two pieces of evidence confirmed above, relating to grid connection and land use, have been adjusted slightly in comparison to the original proposals in the consultation document, in response to the points made by consultation respondents about evidence that is designed to be provided prior to full financial commitment to a project. We consider that these forms of evidence now constitute a less comprehensive test of project progress than did the original proposals, in particular for larger projects. However, we appreciate that to have retained the original proposals would in turn have been likely to exclude smaller projects which were also at need of the grace period. We therefore consider that this decision is justified, in combination with the technology eligibility restriction detailed above.

8.57 The third piece of evidence confirmed above, relating to planning, is unchanged from the original proposal. While we appreciate that receiving planning consents can take a substantial period of time, we consider that receipt of full planning consents is an important form of evidence, as it is a fundamental test of project viability. We consider that the fact that an operator has applied for planning permission or received outline permission only – both suggested alternatives to full planning consents – would not give sufficient assurance that a project is ready to move forward in time to commission prior to the RO closure date. We would like to emphasise that it will be acceptable for there to be outstanding conditions precedent set upon the planning permission, as it is not necessarily possible for operators to comply with conditions precedent in advance of construction.

8.58 The fourth piece of evidence is a substitute for all the previous proposed forms of financial evidence. Analysis of consultation responses has confirmed that the majority of the proposed forms of financial evidence were not fit for purpose, because they were too restrictive, too unclear, or too sensitive. The alternatives suggested would for the most part also have only been suitable for certain technologies or certain types of projects. For example, different evidence forms would be appropriate to balance sheet funded projects and to investor funded projects respectively.

8.59 While it might have been possible to draw together different lists of evidence for use depending on the circumstances of the project or its technology, this would have resulted in a complicated array of evidence forms. Individual operators would have received much less certainty as to their own chances of meeting the evidence requirements, and attempting to do so would have been burdensome. Ofgem would have been required to make judgements as to whether evidence provided was consistent with the requirements, and whether the project in question had chosen the evidence forms suitable to its circumstances. This would have been likely to take considerable time, delaying the point at which projects would receive assurance of grace period access. As set out in the

consultation, one of our core objectives in setting the terms of this grace period was to limit that risk by setting clear and straightforward evidence criteria.

- 8.60 One option which Government considered very carefully was the possibility of expanding the 'comfort letter' evidence form into a 'project viability report' conducted by an independent assessor, which would encompass an assessment of all evidence forms. We considered that such a report would have had the merits of giving operators the assurance that an independent party was assessing any confidential material (rather than Ofgem). We also considered that this approach would simplify the application process both for operators and for Ofgem, as both parties would have the certainty that if the independent assessor had stated that the project met the evidence requirements to access the grace period, then Ofgem would simply confirm that access.
- 8.61 However, for this process to work we would have had to produce a comprehensive and reliable definition of the characteristics of suitable assessors. It would have had to give Ofgem and Government assurance that the assessors were competent to produce a report that carried this degree of weight. It would also still have been necessary to identify a comprehensive set of evidence points which the assessors would have been obligated to examine, which remained challenging for the reasons set out above.
- 8.62 For these reasons, we concluded that this option would not in fact be the most appropriate approach. We therefore decided to manage access to this grace period in the first instance by limiting technology eligibility, as detailed above, which then allowed us to set a more proportionate financial evidence requirement.

## Dedicated Biomass Power-Only

### Introduction

- 8.63 Government has recognised that dedicated biomass projects have in some cases been delayed while detailed Government policy arrangements in relation to the 400MW cap were put into place. In the RO Grace Periods Consultation, we proposed to offer an 18 month grace period to dedicated biomass projects (without CHP) which are allocated an unconditional place within the 400MW cap. This would enable projects within the cap to have an additional 18 months after 31 March 2017 in which to obtain RO accreditation.

## Main messages from responses

<b>Question 5</b>	
<b>18 month grace period for projects allocated a place within the RO 400MW cap for dedicated biomass projects</b>	
Agreed	23
Partially Agreed	0
Inconclusive	1
Disagreed	2
No comment	23

- 8.64 The majority of respondents who commented agreed with the 18 month grace period. They maintained that such a grace period is warranted due to delays faced by the dedicated biomass sector resulting from slower than expected Government policy formulation, which was no fault of industry (e.g. uncertainty over the outcome of the biomass notification register and sustainability criteria). Some respondents also maintained that such a grace period was warranted due to the lack of support under CfDs for dedicated biomass power-only projects.
- 8.65 However, the majority of these respondents also proposed that dedicated biomass Combined Heat and Power (CHP) should also be eligible for an 18 month grace period. They maintained that such projects have also been subject to delays following slower than expected Government policy formulation, which was no fault of their own (e.g. delay on the Government's response to the consultation on proposals to enhance the sustainability criteria for use of biomass feedstock's under the RO, and the fact that no final announcement had at that time been made for the Renewable Heat Incentive (RHI) rate for biomass CHP).
- 8.66 Furthermore, a number of respondents highlighted that under the proposals set out in the consultation, dedicated biomass CHP projects would only have access to a 12 month grace period. They argued that this creates a perverse incentive for projects to dump their heat off take in order to qualify for the longer 18 month grace period – undermining Government's aim of incentivising good quality biomass CHP projects under CfDs and the RHI. Some respondents maintained that bioliquid CHP plants should also be eligible for an 18 month grace period for the same reasons as stated above for dedicated biomass CHP.
- 8.67 Only two respondents disagreed that an 18 month grace period should be granted. One respondent questioned whether an additional 18 months was necessary, on the basis that projects allocated a place within the cap will have reached, or be close to, financial close. The other respondent acknowledged that an 18 month grace period for dedicated biomass projects was warranted. However, this respondent proposed that instead of granting this grace period, the notification deadline for the 'enabling financial decisions' grace period should be moved from July 2014 to December 2014 for all biomass projects. The respondent maintained that this would achieve the same goal as granting an 18 month grace period, whilst avoiding disadvantage to dedicated biomass CHP projects.



## Post-consultation decision

- 8.68 **The Government confirms its intention to offer a grace period to dedicated biomass projects (without CHP) which are allocated an unconditional place within the 400MW cap.** Evidence presented by respondents to the RO Grace Periods Consultation supports the Government's rationale for this grace period, namely that power-only dedicated biomass projects require a longer grace period because they will not be eligible to apply for the CfD, and are therefore subject to higher risk in financing terms. Should their timetables be delayed to the extent that they are unable to commission prior to the end of their grace period, they would no longer have access to any support mechanism. Our assessment, therefore, is that an 18 month grace period is necessary to allow such projects to achieve financial backing.
- 8.69 **The Government has decided that dedicated biomass CHP projects will also be eligible for an 18 month grace period.** Government has recognised the views put forward by respondents to this consultation, that dedicated biomass CHP projects have also been subject to delays due to slower than expected Government policy formulation. In addition, the Government appreciates that there could be a perverse incentive for dedicated biomass CHP projects to remove their heat offtake in order to qualify for a longer RO grace period as a dedicated biomass power-only plant (18 months as opposed to 12 months). Our assessment, therefore, is that an 18 month grace period for dedicated biomass CHP projects is necessary to support Government's aim of incentivising good quality biomass CHP projects.
- 8.70 As the rationale for including dedicated biomass CHP within this grace period relates to the possible perverse incentive described above, the fuel eligibility will be aligned to that for the 400MW cap. This means that dedicated biomass CHP projects not using any solid biomass to generate electricity will not be eligible for the grace period. If a project intends to use a mix of solid biomass fuel and bioliquids, they will be eligible for the grace period.
- 8.71 For dedicated biomass with CHP, the criteria and application deadline for this grace period will be the same as those set out for the 12 month 'enabling financial decisions' grace period. However, in addition to these criteria, in order to qualify for this 18 month grace period, dedicated biomass with CHP projects will also be required to provide a CHPQA certificate. For dedicated biomass without CHP, the only criteria will be the holding of an confirmed place within the 400MW cap.
- 8.72 This grace period will not be available for additional capacity. The Government also notes respondents' views regarding the interrelationship between terms of support offered for dedicated biomass CHP under the RO and that offered under CfDs. We can confirm that we will publish further information regarding the CfD allocation framework and contracts shortly, and we would therefore direct respondents interested in this issue to this information.

## Other Issues

### Introduction

8.73 The RO Grace Periods Consultation also offered respondents the opportunity to give any other comments on RO closure arrangements more generally.

### Main messages from responses

Question 6 Any other comments	
Comment relating to Q1-5	11
Other comment	16
No comment	22

- 8.74 Comments relating to other questions within the RO Grace Periods Consultation were assessed alongside responses to those questions. Of the other comments, a number related to questions within the RO Transition Consultation, and were similarly factored in to preparation of policy decisions on transition arrangements covered elsewhere in this Government Response. Several other comments related to EMR rather than the RO closure, and were passed to relevant teams to factor into EMR design work.
- 8.75 Of the remaining comments, some sought for the RO end date of 2037 to be extended for projects accrediting under the terms of grace periods, while one pressed for the RO not to be closed to new capacity. A couple of respondents supported the proposal for consistent grace period arrangements across Great Britain, and welcomed the clarity provided in the consultation that pre-existing grace period arrangements would be maintained – in particular, the grace period for innovative offshore wind generation in Scottish waters.
- 8.76 Some respondents asked for a table of the grace periods on offer showing which ones are available to which technologies, while others suggested that data on grace period access should be provided once grace period policy is being implemented. One respondent suggested that a specific grace period to cover one particular difficulty being experienced by a particular project should be provided.

### Post-consultation decision

- 8.77 **The Government wishes to reconfirm that the grace period arrangements set out in the Scottish Government's response to its consultation on new bands for innovative offshore wind generation in Scottish waters, published on 12 June 2013, are not affected by the proposals contained in this document.** In order to be eligible for the grace periods under those bands, projects must pre-accredit before April 2017 but will, where necessary, be able to register additional phases of capacity until 31 September 2018.
- 8.78 Government has provided a table of the terms for the grace periods confirmed within this document in **Annex 3**, and a technology eligibility table in **Annex 4**. Government confirms

that it will close the RO to new capacity, as this is an integral part of transition to the new Contract for Difference. Similarly Government confirms that the end date of the RO in 2037 will be maintained, as part of the same transition, to give an added incentive on projects to commission and accredit at the earliest opportunity even when accessing grace periods.

## 9. Technology-specific measures

**Questions 10 and 11** covered two specific measures for operators of biomass co-firing stations and units, and **Question 12** covered a specific measure for operators of offshore wind stations. Each question is dealt with separately below.

### Biomass Conversions – Access to CfD

#### Introduction

9.1 Within the RO Transition Consultation, we proposed the detailed arrangements relating to the policy that an operator of a biomass co-firing station or unit would be entitled to apply for an Investment Contract or CfD for that station or unit as a full biomass conversion, and to exit the RO if successful. This proposal was set in the over-arching policy context relating to biomass.

#### Main messages from responses

Question 10 Biomass co-firing stations or units leave the RO if successful in a CfD application as a biomass conversion	
Agreed	14
Partially Agreed	2
Inconclusive	1
Disagreed	1
No comment	28

9.2 A number of respondents agreed with this proposal without comment. Others indicated that the reason for their support for this optionality for biomass co-firers was their concern that the Capacity Mechanism could dampen wholesale prices. Government responds to this concern under **Question 11** below.

9.3 A few respondents qualified their agreement by making proposals in relation to the way any transfer from the RO to a CfD under this policy should take place. For example, they suggested that departures from the RO should be announced to the wider market in good time, or that a mechanism would be required to deal with outstanding ROC payments and under-issuance, after an RO accredited co-firer leaves the RO.

9.4 Some respondents asked for clarification on certain aspects of the proposal, including the way in which the policy applies to Investment Contracts under FID Enabling, and the length of associated support terms. Two respondents indicated that they believed the option should be open to other technologies as well as biomass co-firing.

## Post-consultation decision

- 9.5 **The Government has decided to offer operators of RO accredited biomass stations or units which have never claimed ROCs under the biomass conversion support band the opportunity to leave the RO if successful in applying for a CfD or Investment Contract as a biomass conversion.** This is in line with Government's objective to incentivise full biomass conversion as a transitional technology. In order to preserve the stability of the ROC market, Government does not intend to offer this option to other technologies.
- 9.6 **The Government has decided that the processes and requirements that will apply to operators taking up this option will be as set out below.**
- 9.7 When applying for a CfD for an RO-accredited station or unit, an operator will be obliged to:
- a. Provide the CfD Delivery Body with a self-declaration of the sort described at paragraphs 3.9-10;
  - b. Copy that self-declaration to Ofgem to allow for data-sharing between Ofgem and the Delivery Body, and to ensure that Ofgem is aware that the application is underway.
- 9.8 If successful in its application for the CfD or if it enters into an Investment Contract, the operator will be required to inform Ofgem of that success, and to advise Ofgem of the month in which it expects to convert the station or unit. RO-accredited capacity at the station or unit will then continue to be entitled to claim ROCs for the renewable generation resulting from co-firing, until the conversion of the station or unit takes place. However, it will not be entitled to claim ROCs at the RO conversion band.
- 9.9 The conversion of the station or unit will be deemed to take place when the station or unit starts generating wholly from biomass, at which point we assume that the operator initiates the contract Start Date and begins claiming payments for generation from the capacity within the Investment Contract or CfD. At that point, the operator will be obliged to confirm this occurrence to Ofgem, and the station or unit will permanently cease to be eligible to receive ROCs of any sort for its generation.
- 9.10 If the schedule for the conversion changes, within the timeframe permissible within the contract, the operator may continue to receive ROCs for co-firing generation in the period prior to the revised Start Date, subject to keeping Ofgem informed in advance of these changes.
- 9.11 If the operator determines prior to the Start Date that it is no longer able or willing to convert the station or unit in full, and is therefore withdrawing from its CfD, the station would still no longer be eligible for ROCs from the Start Date that was notified to Ofgem.
- 9.12 Biomass plants will be defined as Dual Scheme Facilities for the period of time that some units are supported within the RO, whether as co-firers or full conversions, and others are fully converted units under Investment Contracts or CfDs. They will be subject to the provisions for Dual Scheme Facilities set out in **Section 5** of this document during that period of time.
- 9.13 The Government will use the information provided to Ofgem by operators taking up this option, and the voluntary cost-control mechanism whereby operators of biomass plants

keep Government informed of their firing intentions for the coming year, to take any coming departure from the RO into account when setting the Obligation. The detailed process for ensuring accurate issuance and calculation of ROCs at and after the point of departure from the RO will be a matter for Ofgem.

- 9.14 There will be no restriction on this option on the basis of the length of time a project has already been accredited under the RO as a co-firer: because biomass is regarded by Government to be a transitional technology, support under the CfD for biomass conversions will end on 31 March 2027, therefore Government considers further restriction on the basis of prior support length to be unnecessary.
- 9.15 Government confirms that this option applies to Investment Contracts as well as CfDs. Because the Investment Contract process under FID Enabling is already well underway, the requirement on operators of relevant plants and units to inform Ofgem of their applications for an Investment Contract does not stand. However, such plants will be obliged to inform Ofgem if and when they sign an Investment Contract, and to comply with the remaining elements of the process outlined above at that point.
- 9.16 However, if the station or unit in question is subject to an Investment Contract, and that Investment Contract is terminated under the circumstances detailed in paragraphs 2.18-19, then the station or unit would regain its eligibility for ROCs, including conversion-level ROCs.
- 9.17 Where operators are taking up a CfD or Investment Contract for biomass conversion on a unit by unit basis, operators of biomass stations with one or more units firing within the RO, and one or more units supported by a CfD or Investment Contract, will be required to comply with Dual Scheme Facility metering and fuel measurement provisions.
- 9.18 Please note the above policy is not covered in full within the RO (Amendment) Order 2014 that is currently before Parliament. Instead, it will be implemented in full via the consolidated version of the RO Order referenced in paragraph 1.26 b, subject to Parliamentary approval.
- 9.19 Within the RO Transition Consultation we proposed that once an operator of a biomass station within the RO has signed a CfD or Investment Contract for one or more units, it would no longer be entitled to claim ROCs at the conversion band for other units in respect of which it has not previously fired and claimed this level of support. We have not yet taken a decision on the final policy on this proposal, and will confirm that decision in due course.

## **Biomass in the Capacity Market**

### **Introduction**

- 9.20 The first auction for the Capacity Market (CM) will be held this year, for delivery of capacity in winter 2018-2019 (subject to State Aid approval and Parliamentary approval).
- 9.21 The purpose of the CM is to ensure there is sufficient investment in the overall level of reliable capacity (both supply and demand side) needed to ensure secure electricity supplies. It will bring forward investment at least cost to consumers by allowing the market to set a price for capacity competitively.

9.22 A significant proportion of stations which are primarily coal-firers have at some point claimed low levels of co-firing ROCs, and remain RO accredited. We did not wish to exclude such coal-firing stations from the CM. For this reason, we proposed that biomass co-firing stations would have the option of leaving the RO if successful in a bid into the CM.

### Main messages from responses

Question 11 Biomass co-firing stations or units leave the RO and bid into the Capacity Market	
Agreed	10
Partially Agreed	4
Inconclusive	1
Disagreed	5
No comment	26

9.23 A majority of those respondents who replied to this question agreed with the proposal. A number of respondents stated that the option should be open either to all forms of biomass, to all baseload stations within the RO, or to all RO accredited stations. Some respondents also stated that it should be possible to participate in the CM while remaining RO accredited.

9.24 Some respondents did not explain their reasons for these views, while others stated that more open CM participation was necessary to mitigate the dampening effect the CM could have on wholesale electricity prices. Such respondents quoted the Poyry report projection of £7 p/MWh, which they suggest was not taken into account effectively in RO modelling at the most recent Banding Review.

9.25 Some respondents suggested that it should be possible to re-enter the RO after a year or more within the CM, since a capacity agreement would only run for a year. Some respondents stated that those operators taking up this option should be able to claim ROCs for generation from the relevant plants or units until the 'last possible moment'.

### Post-consultation decision

9.26 **The Government confirms that the arrangements for biomass co-firing stations and units to bid into the CM and leave the RO if successful in that bid will be as proposed in the consultation document.** In order to preserve the stability of the ROC market, Government does not intend to offer this option to other technologies. While we recognise that the CM could have a dampening effect on wholesale prices, this impact was taken account of in the latest ROC banding exercise and so allowing parties to receive both forms of support could constitute overpayment.

9.27 The Government's rationale for preventing biomass co-firing stations and units from returning to the RO after leaving it for the CM is that this would be disruptive to the ROC

market, and would be incompatible with the overall closure of the RO to new capacity on 31 March 2017. Allowing projects to realise RO support again after that date would be akin to allowing new entrants to the scheme, and would result in fluctuations in the overall size of the RO in a period when the RO can otherwise be expected to be relatively stable.

- 9.28 The Government confirms that plants or units which are being transferred into the CM will be able to claim ROCs until the last day prior to the beginning of the CM delivery year in which they are participating.

## Offshore Wind Phases

### Introduction

- 9.29 The Government stated in the EMR White Paper in 2011 that offshore wind projects which were already accredited within the RO at the point of closure and had registered some turbines under this scheme, would be able to commission their remaining phases under the RO, the CfD (subject to successful application) or both. This policy was designed to ensure that operators constructing and commissioning offshore wind stations in phases over several years were not unduly disadvantaged by the transition from the RO to the CfD.
- 9.30 In the RO Transition Consultation, we set out further details on the way in which this option would work in practice. We also sought views on whether or not the option remained necessary, as we had received some indication that few actual projects were likely to require it.

### Main messages from responses

Question 12	
Three support options for offshore wind phases	
Agreed	19
Partially Agreed	0
Inconclusive	0
Disagreed	2
No comment	25

- 9.31 The majority of those who agreed with the proposal stated that it ‘provided maximum flexibility and reassurance to investors’, minimising the risk of an investment hiatus. Some respondents considered the RO/CfD phasing option to be important even though they were not aware of any projects requiring the option in practice, while other respondents felt that all three options were essential due to the fact that the design of CfDs was still under development. There was a suggestion that an announcement of the support option an operator was choosing in relation to any given phase or phases should be published in the interests of transparency. It was also suggested that the proposal would need to be



implemented in a way which did not adversely impact on the Obligation setting process during the transition period.

- 9.32 Compatibility between the three options (in terms of their terms and benefits to operators) was considered essential to minimise gaming and policy distortion, and clarity was sought on how the RO and CfD 'dual scheme' option would work in practice, given the differences in the phasing provisions within the two schemes. A couple of respondents suggested that projects taking up the RO/CfD option should only be allowed five years to complete all their phases across the RO and CfD in total.
- 9.33 Of those respondents who disagreed with the proposal, one suggested that the RO-only option should be amended to allow an operator that registers and accredits all remaining phases under the RO, to receive the equivalent of a full 20 years support for each of these phases. The other suggested that phasing be offered more generally across the technologies until 2027.
- 9.34 There were mixed views on metering arrangements, which were consistent with those covered in **Section 5** above.

### Post-consultation decision

- 9.35 **The Government has decided that offshore wind generators which have accredited within the RO at the point of closure, and are looking to register turbines in more than one phase, will be given the three options proposed in the RO Transition Consultation.** These options will be offered throughout the transition period to provide maximum flexibility and minimise the risk of an investment hiatus. Although minimal evidence was provided on the extent of actual requirement for the RO/CfD phasing option, we have decided not to remove this option.
- 9.36 As previously set out, operators of offshore wind stations who are applying for a CfD will be subject to the arrangements regarding additional capacity applications set out elsewhere in this document. Operators who are successful in an application for a CfD for one or more phases will also be expected to treat the capacity within each scheme, and the generation that results from that capacity, as distinct and separate. This will involve complying with CfD phasing provisions and metering rules, to be published on the CfD Expert Group on Metering website in Spring 2014. In practice, the combination of RO and CfD phasing requirements would mean that RO and CfD phases will need to be on entirely separate strings of turbines, with no connection that enables electricity generated by RO-registered strings to be exported on a CfD string or vice versa.
- 9.37 Government appreciates that the above provisions reduce the advantages of the RO/CfD phasing option. However, given the lack of evidence for a significant number of projects requiring this option in practice, we consider that developing a specific set of provisions to cover the requirements of an RO/CfD offshore wind station would be disproportionate. The provisions for other Dual Scheme Facilities would be incompatible with RO and CfD phasing provisions in combination, therefore cannot be used in this instance.
- 9.38 Operators of RO accredited offshore wind stations undergoing phasing will be required to inform Ofgem on or before the RO closure date of whether they intend to take up the RO option in relation to some or all of their remaining phases. Further details on the way in which Ofgem will manage this process will be set out in Ofgem guidance.

- 9.39 In response to the concerns raised by some respondents, Government considers that the robust CfD application process makes it unnecessary to place restrictions on the number of additional phases for which operators may apply for a CfD. Requiring the Delivery Body to take previous time utilised within the RO phasing process into account when assessing the application would add little benefit to the already rigorous process.
- 9.40 Phases registered under the RO already receive 20 years support for each phase from the date of registration, subject to the 2037 end date of the RO. There will be no adjustment to this end date for phases in respect of which developers take up the option of registering those phases in advance of their commissioning date.
- 9.41 Although operators of RO accredited offshore wind stations will be able to apply for the CfD or the RO for any unregistered turbines, stations will cease to be able to register phases under the RO if they apply for the CfD in respect of any wind turbines. Stations will also be unable to register any phases under the RO after the RO is closed to new capacity.

# 10. Fixed Price Certificate

**Question 13** sought views on the timing of introduction of the Fixed Price Certificate Scheme, following evidence from some stakeholders suggesting that the previously established date of 2027 was no longer suitable.

## Introduction

- 10.1 The closure of the RO to new stations will create a closed pool of capacity which will decrease over time as we approach the overall end date for the RO of 31 March 2037. In the July 2011 White Paper, the Government confirmed that we would address this issue by calculating the RO annually by headroom until 31 March 2027, and then moving to a Fixed Price Certificate (FPC) Scheme, with the price of certificates fixed at the 2027 buyout price, plus 10%.
- 10.2 This approach was designed to balance the need to protect parties to Power Purchase Agreements (PPA) and financing agreements from the impact of triggering change in law provision, against the need to give long-term certainty over ROC income and ensure RO stability in the final years of the scheme.
- 10.3 Earlier this year, some stakeholders urged the Government to reconsider this policy, due to concerns about the perceived possibility that the market price of a ROC might fall below the buyout price and about reductions in PPA availability.

## Main messages from responses

Question 13	
Balance of risks and benefits of moving to a fixed price scheme from 2027	
Introduce Fixed Price Scheme in 2017	11
Introduce Fixed Price Scheme in 2017 (with caveats)	6
Introduce central buyer in 2017	3
Introduce Fixed Price Scheme in 2027	8
Introduce Fixed Price Scheme in 2027 (with caveats)	2
Inconclusive	9
No comment	7

- 10.4 Respondents' views on this issue varied substantially. Overall, generators were more likely to favour bringing the FPC forward to 2017, while suppliers and financial institutions favoured retaining 2027. Trade associations noted and expressed the divergent views of their members.

## Fixed Price Scheme in 2017 / Central Buyer in 2017

- 10.5 A number of respondents highlighted their concern that ROC values could fall as their primary reason for supporting either FPC introduction in 2017, or a central buyer of another sort in 2017. Such respondents cited current or future ROC over-supply as evidence for their concern about ROC values. However, they did not explain how such over-supply could occur within the constraints of the RO system and the Obligation setting process, or how ROC values could fall below the buyout price.
- 10.6 Some respondents in favour of 2017 indicated that they considered the associated Change in Law (CiL) impact would be minimal or non-existent, while others stated that this view was based on the assumption that Government would prevent any impact on Change in Law provisions.
- 10.7 Conversely, respondents opposed to 2017 considered that early introduction would initiate widespread reviews of PPAs and other associated contracts due to Change in Law provisions, with corresponding cost, time and resourcing implications. It was also noted by one respondent that the capacity within the RO in 2017 will be significantly larger than in 2027, therefore early introduction of the FPC would bring with it the requirement for the central buyer to process a substantially higher number of transactions than if the FPC is not introduced until 2027.

## 2027 / Maintain option for early introduction

- 10.8 Respondents who favoured retaining the established introduction date of 2027 generally indicated that their reason for this position was concern relating to Change in Law impact, as discussed above. Such respondents also commented that the large RO capacity ensures that ROCs remain tradable, and that setting the Obligation (and thus managing ROC supply and ROC values) in the period between 2017 and 2027 will be straightforward, since the scheme will be closed and stable. Such respondents therefore saw no requirement for earlier introduction of the FPC.
- 10.9 Some respondents mentioned that, while they considered that there was insufficient evidence at present to change the date of FPC introduction, it would be advisable for Government to set up a process for bringing the FPC forward speedily if matters changed. However, other respondents stated that the uncertainty caused by this question being raised in consultation was itself having a damaging effect on PPA preparation and other contracts, making possible parties to contracts unwilling to sign them until after Government confirms the date of FPC introduction. Such respondents emphasised the need for a clear and definitive position on the timing of FPC introduction.

## Post-consultation decision

- 10.10 The Government has assessed all responses to this question carefully, and has decided to maintain the previous introduction for the FPC Scheme: we intend to introduce the scheme on 1 April 2027.**
- 10.11 We appreciate that a number of respondents have significant concerns about both ROC values and PPA availability. However, we do not consider that those concerns have been

substantiated. In particular, responses did not change our general assessment that ROC values are unlikely to fall below the buyout price in practice, and that a significant over-supply of ROCs is unlikely to occur, since the RO is specifically designed to mitigate the risk of both these occurrences.

- 10.12 The diversity of views on the degree and risk of the impact that early introduction could have on Change in Law provisions suggests that this impact may well vary substantially depending on the circumstances of individual operators and investors. For good reasons such as commercial confidentiality, Government has no data on the number or size of contracts and PPAs held by RO accredited operators, or the terms of those contracts and PPAs. It is therefore not possible for us to assess the degree of risk for the RO community overall.
- 10.13 It is currently assumed that the timing of FPC introduction is a neutral factor in relation to the cost of the RO to consumers, as headroom would still be incorporated (within the fixed value) in the FPC Scheme. Bringing FPC introduction forward would therefore not act as a safeguard for consumers in terms of the overall cost of the RO, although it could protect consumers against a significant under-supply of ROCs, which would reduce the value for money of the RO scheme. Conversely, early introduction of the FPC would involve significantly more transactions on the part of the central buyer than if the FPC is not introduced until 2027, due to the different overall size of the FPC at those two dates. Therefore introducing the FPC in 2017 would involve higher administrative costs than in 2027, which would be passed on to either consumers or taxpayers.
- 10.14 The Government does not consider that a clear case has been made for early introduction of the scheme.** The Government will be preparing and consulting upon the detailed design of the Fixed Price Certificate Scheme, and the associated secondary legislation, in due course.

# Annex A: List of Respondents to RO Transition Consultation

Advance Plasma Power Ltd	HES Biopower Limited
Air Products	Infinis
Banks Renewables	Lightsource
Brite Partnership	Morgan Stanley
British Solar Renewables	New Earth Solutions Group Ltd
Centrica	Ofgem
Crown Estate	Ovo Energy
Darley & Associates	REA
DONG Energy	REG Windpower
Drax Power Limited	Renewable Energy Systems
Ecotricity	Renewables UK
EDF Energy	RWE npower renewables Ltd
EDF Trading	Scottish Power
Eggborough Power Ltd	Sembcorp Utilities (UK) Limited
Energy Power Resources Limited	Smartest Energy
Energy UK	Solar Trade Association
Enviropower	Spencer Group
E.ON	SSE
Ernst & Young	Statkraft
ESB	Statoil
GDF Suez	Vattenfall
Good Energy	Vestas
Helius Energy	Volac

# Annex B: List of Respondents to RO Grace Periods Consultation

AB Sugar	Forth Energy
Air Products	Frontier Agriculture Ltd
Balfour Beatty	Helius Energy
Banks Group	HES Biopower
Brite Partnership	Living Fuels
Centrica	Mainstream Renewable Power
Cofely	New Earth Solutions Group Ltd
Combined Heat and Power Association	Northern Energy Developments Ltd
Cornwall Energy Associates	Ofgem
Dalkia BioEnergy	Parsons Brinckherhoff
DONG Energy	Peel Energy
Ecotricity	REA
Eco2 Ltd	RWE npower renewables Ltd
EDF Energy	Renewable Energy Holdings
Eggborough Power Ltd	Renewable Energy Systems Limited
Energy UK	Renewables UK
E.ON	Scottish Power
Ernst and Young	Scottish Renewables
ESB	Scottish Water
European Forest Resources Group	Sembcorp Utilities (UK) Ltd
Fferm Wynt Llaithddu Cyf	Siemens UK
Smartest Energy	Statkraft UK Ltd
Solar Century	Statoil
Spencer Group	Volac
SSE	

# Annex C: Grace Period Terms Table

Name	Length	Eligibility	Application Timeframe	Evidence
<p><b>Radar or Grid Connection</b></p>	<p>12 months</p>	<p>Projects of all RO technologies</p>	<p>Apply by 31 March 2018 as part of the application for accreditation after delay has materialised</p>	<p>1. Grid connection agreement consisting of:</p> <ul style="list-style-type: none"> <li>• A grid connection offer;</li> <li>• Acceptance of that offer;</li> <li>• A letter from the network operator which estimated or set a date no later than 31st March 2017 for delivery of the connection.</li> </ul> <p>2. A written declaration by the generator that to the best of their knowledge, the generating station would have been commissioned on or before 31 March 2017 if the connection had been made on or before the grid connection date;</p> <p>3. A letter from the network operator confirming that the grid connection was made after the grid connection date, and that in the network operator's opinion, the failure to make the grid connection on or before the grid connection date was not due to any breach of the grid connection agreement by the generator / developer.</p> <hr/> <p>1. A copy of a radar works agreement specifying a radar works completion date which is no later than 31 March 2017;</p> <p>2. A letter from a party to the radar works agreement who is unrelated to the generator / developer confirming that the radar works were completed after the agreed date and that the failure to complete the radar works on time was not due to any breach of the radar works agreement by the generator / developer; and</p> <p>3. A written declaration by the generator that, to the best of their knowledge and belief, the station would have been commissioned on or before 31st March 2017 if the radar works had been completed on or before the radar works completion date.</p>
<p><b>Investment Contracts</b></p>	<p>12 months</p>	<p>Any projects that have signed an Investment Contract</p>	<p>Apply by 31 March 2018 as part of the application for accreditation after the Investment Contract has been dissolved</p>	<p>Letter from DECC confirming that an Investment Contract was held by the signatory and has been terminated due to State Aid delay, refusal of State Aid approval or conditions attached to the State Aid approval or due to changes in the light of the standard CfD terms issued by the Secretary of State.</p>



Name	Length	Eligibility	Application Timeframe	Evidence
Enabling Financial Decisions	12 months	Standard and advanced gasification / pyrolysis Offshore wind	Apply by 31 October 2014	<ol style="list-style-type: none"> <li>1. A grid connection offer, accompanied by a letter from the network operator which estimated or set a date no later than 31st March 2017 for delivery of the connection.</li> <li>2. Relevant planning consents, evidenced by either: <ul style="list-style-type: none"> <li>• Planning permission under Town and Country Planning Act 1990; or</li> <li>• Consent under section 36 of the Electricity Act; or</li> <li>• Development consent under the Planning Act 2008</li> </ul> </li> <li>3. Land availability evidenced by either: <ul style="list-style-type: none"> <li>• Land use rights; or</li> <li>• An options agreement for land use rights; or</li> <li>• For offshore projects only: a signed Agreement for Lease with The Crown Estate</li> </ul> </li> <li>4. A Director's Certificate confirming that: <ul style="list-style-type: none"> <li>• The developer expects the project to commission on or prior to 31 March 2017 on the basis of current project plans; and</li> <li>• The developer will have sufficient resources to commit to the project, subject to receiving confirmation of eligibility for this grace period.</li> </ul> </li> </ol>
Dedicated Biomass	18 months	Dedicated Biomass power-only	Apply by end of September 2018 as part of the application for accreditation after the delay has materialised	<ul style="list-style-type: none"> <li>• Final acceptance letter from DECC offering a confirmed place within the 400MW cap.</li> <li>• Confirmation that the place within the cap has not been withdrawn.</li> </ul>
		Dedicated Biomass with good quality CHP	Apply by 31 October 2014	<ul style="list-style-type: none"> <li>• Enabling Financial Decisions evidence detailed above.</li> <li>• Quality Assurance for Combined Heat and Power (CHPQA) certificate.</li> </ul>

# Annex D: Grace Period Eligibility by RO Band

Projects will be eligible for a grace period if they meet the criteria for claiming ROCs at a band marked with a 'Y'.

Band	Grid Connection or Radar	Investment Contract	Enabling Financial Decisions	Dedicated Biomass
Advanced gasification/pyrolysis	Y		Y	
Anaerobic Digestion	Y			
Co-firing (all ranges)	Y			
Co-firing (all ranges) with CHP	Y			
Co-firing of regular bioliquid	Y			
Co-firing of regular bioliquid with CHP	Y			
Co-firing of relevant energy crops (low range)	Y			
Co-firing of relevant energy crops with CHP (low range)	Y			
Conversion (station or unit)	Y	Y		
Conversion (station or unit) with CHP	Y			
Dedicated biomass	Y			Y
Dedicated biomass with CHP	Y	Y		Y
Dedicated energy crops	Y			
Energy from waste with CHP	Y			
Geothermal	Y			
Geopressure	Y			
Hydro	Y			
Landfill gas – closed sites	Y			
Landfill gas heat recovery	Y			
Microgeneration	Y			
Onshore wind	Y	Y		
Offshore wind	Y	Y	Y	
Sewage gas	Y			
Solar PV	Y			
Building mounted solar PV	Y			
Ground mounted solar PV	Y			
Standard gasification/pyrolysis	Y		Y	
Tidal barrage	Y			
Tidal lagoon	Y			
Tidal stream	Y			
Wave	Y			

# Annex E: Analytical Annex

This annex is an update to the analytical annex published alongside the Consultation.

## Introduction

1. This annex accompanies the Government Response on Renewables Obligation (RO) Transition and Grace Periods.
2. This annex discusses what the policy decisions on RO transition and grace period arrangements set out within the Government Response are likely to mean for new renewable stations and for existing renewable stations who wish to expand their generating capacity.
3. The aim of the transition period between the RO and Contracts for Difference (CfDs) is to reduce the risk and likelihood of an investment hiatus. This is done by giving investors sufficient confidence to proceed with their plans. This is counterbalanced by the need to manage the total support provided to renewable generators, to reduce the impact upon consumer bills.

## New Generating Stations

4. The Government Response confirms the proposals relating to the point at which the choice of scheme will occur: developers will not be eligible for the RO when they have an application pending for a CfD. Similarly, they will not be eligible for a CfD when they have an application pending for the RO. An application for support under the RO will not be accepted unless developers declare that they don't have an application pending for the CfD. The purpose of this is to ensure that generators do not disrupt the application and allocation procedures for each scheme and do not receive excessive levels of return by being supported under different schemes for the same generating capacity.
5. In the absence of a decision point between the schemes there could be an incentive for developers to apply for both, as the costs of applying are likely to be negligible compared to the other costs associated with developing a new generating station. This would allow developers to make the decision about which of the schemes is more beneficial for them at the latest possible moment. For example, a generator which had made a final investment decision on the basis of one scheme, and would therefore receive sufficient support under that scheme to deploy, could shift to the other scheme if the rewards (for the plant in question's particular circumstances) were felt to be greater. This would result in a greater cost to consumers with no accompanying additional capacity. Allowing developers to apply for more than one scheme would also increase the administrative costs incurred by Ofgem and the CfD Delivery Body, as they would have more applications to deal with than would otherwise be the case.

6. The choice of scheme between the RO and Investment Contracts will apply at the point of signature of the Investment Contract, rather than at the point of application. This has allowed developers to investigate Investment Contracts without risk to themselves in advance of full clarity on RO transition policy decisions, which has helped to ensure that there is no investment hiatus.
7. Generating stations that have applied for and have been awarded a CfD are not eligible to apply for the RO. This is to reduce the possibility of generators making excessive returns on their investments, as set out above. Not allowing generators to move from CfDs to the RO also means that there is greater budget certainty for both schemes and facilitates more accurate obligation and budget setting, as it is more possible to assign plants beginning to generate in a given year to one of the support mechanisms.
8. Generating stations that have applied for a CfD but have been rejected will be eligible to apply for the RO until it closes to new applicants, subject to wider RO eligibility requirements. Not offering this option could give an incentive for stations to apply for the RO first, rather than applying for a CfD. Rules that may introduce incentives for generating stations to apply to the RO rather than a CfD when CfDs are available are sub-optimal for both developers and consumers, as they increase uncertainty for developers and therefore are likely to increase costs to consumers. Under the same rationale, generating stations that have applied for an Investment Contract and have been rejected will be allowed to apply for the RO.
9. Developers will be required to provide Ofgem with written confirmation that they meet the conditions detailed above. These conditions include a written confirmation that they have not entered into an Investment Contract or a CfD.
10. In the original consultation, DECC proposed that, in addition to a declaration by the operator, this written confirmation should also be provided in the form of a letter from the Delivery Body. Following the consultation, the Government has removed the latter requirement, and will instead require operators to provide a written declaration only, which will be subject to checks and data-sharing between Ofgem and the Delivery Body and for a copy of the declaration to be sent to the Delivery Body.
11. The costs associated with this process remain twofold. Firstly, the requirement puts a resource cost on the developers as they need to self-certify to Ofgem. Secondly, there is a similar cost on the Delivery Body and Ofgem, who will be required to share information to ensure no developers have applied for both schemes. These administrative costs are anticipated to be small, though it has not been possible for DECC to quantify them. This policy has been agreed with both the Delivery Body and Ofgem.
12. Under the consultation proposals, generating stations are not allowed to apply for a CfD after their 20 years of support under the RO has ended. It is assumed that the costs these stations have incurred will have been recovered by then, so giving them support under CfDs would constitute overcompensation and thus not provide value for money for consumers.

## Additional Capacity

13. During the transition period, RO-accredited generators will be allowed to apply for registration under the RO or for a CfD for additional capacity of more than 5MW. After the RO closes, RO-accredited generators will be allowed to apply for a CfD for blocks of additional capacity more than 5MW. The reasons for this are set out below.
14. Once developers have entered into a CfD for any capacity at an RO-accredited station, no further additional capacity can be registered under the RO. This is because allowing stations to swap back and forth between the RO and the CfD on each element of additional capacity would increase the administrative complexity, which would in turn increase the administrative costs of the scheme. A developer who is successful in gaining a CfD for some capacity at an RO-accredited station will then be operating a Dual Scheme Facility.
15. Operators of Dual Scheme Facilities need to meet the metering and fuel measuring requirements of both schemes, which is likely to be higher cost than meeting the requirements of one scheme only. Depending on the size of the associated cost, there might be an incentive for the plant to apply for the RO rather than a CfD while this is still possible. It is not possible to assess the extent of costs or the overall incentives for generators at this time, as these will vary substantially from plant to plant, depending on the infrastructure in place, and the ease of complying with the RO and CfD metering requirements.
16. The management of the metering and fuel requirements by Dual Scheme Facilities will put administrative and resource costs on Ofgem and the CfD Counterparty, as they will be required to monitor generation under both schemes. After the RO closes, RO-accredited stations will remain able to apply for a CfD for more than 5MW additional capacity as long as they meet the requirements.
17. This option will not be available for additional capacity of 5MW or less, nor will operators be able to register additional capacity of any size under the RO after 31 March 2017. This means that no additional support, on top of what the developer is already receiving, will be available for additional capacity of 5MW or less at RO-accredited stations after 31 March 2017. An alternative option proposed was to allow additional capacity of less than 5MW to continue to be registered, under either the RO or CfDs. If this were under the RO, it would mean the scheme would need to remain partially open after 2017; under CfDs, it would require generators to ensure that the site is metered in accordance with requirements in the CfD contract. Both are felt to be a disproportionate administrative cost for limited additional capacity.
18. For example, between 2006 and 2012, existing stations were accredited for 190 MW of additional capacity; of this, 131 MW was 5 MW or less. 103 MW of this 131 MW additional capacity to existing stations was for landfill and sewage gas sites. Pipeline analysis suggests that the majority of these sites have added most of the extra capacity they can, and we do not expect many new landfill or sewage gas plants under the RO. This in turn suggests that less additional capacity will be added in future years than previously for landfill and sewage gas sites, and that it thus represents a small proportion of total possible deployment.

## Obligation-Setting

19. The proposal in the consultation was to move the timing of the annual obligation-setting process to February, instead of October, to increase the information available to this process during the transition Period. However, in response to the consultation, suppliers indicated that setting the obligation in February would mean they would not be able to factor an accurate obligation level into their prices for the following year, and would therefore incorporate the associated risk into the price increase. They will have to guess what level the obligation will be set at and will expect a risk premium for this uncertainty. Moving the date of obligation-setting therefore represents a potential cost to consumers, and Government has decided to reject the proposal to set the obligation by 1 February, and retain the current obligation-setting deadline of 1 October.
20. During the transition period, setting the Obligation will be more complex than in previous years, due to the potential uncertainty as to whether projects will apply for support under CfDs or the RO. Accurate market intelligence will therefore be even more important than previously. For example, the existing voluntary cost control mechanism provides information to DECC with which to set the Renewables Obligation. Through this mechanism, operators of co-firing stations and biomass conversions are annually asked for information on their generating intentions over the next RO obligation period, including the expected output in the relevant bands over time. This provides information to DECC which helps to set the Renewables Obligation.

## Grace Periods

21. As set out in the main body of the document, the Government is offering four distinct grace periods to cover different circumstances. Annexes C and D set out the detailed eligibility criteria for each of these grace periods.
22. The rationale for offering a 12 month grace period for delays due to grid connection or radar is that these are the most frequent causes of delay which are outside developers' control. In the absence of coverage against these most frequent causes of delay, decisions on projects commissioning before the closure date could be delayed.
23. The rationale for offering a 12 month grace period to developers of projects which are offered and have signed Investment Contracts within the currently ongoing FID Enabling for Renewables Phase 2 application process is that these developers are likely to be making their choice of scheme in advance of Investment Contracts receiving State Aid clearance, at a time when Electricity Market Reform (EMR) has not yet been implemented in full. Without the assurance of an RO 'backstop', it is likely that developers would not sign the Investment Contracts under these circumstances, and would delay the associated investment in and construction of the relevant projects.
24. The rationale for offering a 12 month grace period to developers of ACT and offshore wind projects making financial decisions by 31 October 2014 is that otherwise the risk of these projects not commissioning before the RO closure date would cause an investment hiatus. This is because these technologies are subject to particularly significant risk of delay and relatively long construction timeframes. Developers of such projects may be making financial decisions about investments now, but in the absence of certainty that they would qualify for RO support (for example, if they are delayed due to unexpected difficulties in

the construction process or to extremely poor weather preventing marine construction) and full details about CfDs, these decisions may get delayed. Hence, without grace periods there is a risk that deployment of renewable capacity would not reach the levels presented in the Energy Market Reform Final Delivery Plan.

25. Following the consultation, eligibility for this 12 month grace period has been restricted to ACT and offshore only. As set out in paragraphs 8.48-54 of the main document, this is because these are the technologies felt to be at significant risk of delay and therefore investment hiatus. This is due to difficulty of setting detailed evidence requirements that are open to all technologies, and which are both flexible enough to allow all projects in need of this grace period to access it, and also sufficiently robust to ensure that only projects at risk of investment hiatus could access the grace period. The alternative would have been to set very detailed evidence requirements to be subject to comprehensive assessment and judgement from Ofgem. However, this would have been burdensome for applicants and for the regulator and would have been likely to mean that the regulator took a long time to make decisions on grace period eligibility. As the grace period is designed to prevent investment hiatus, it is essential for decisions to be made on eligibility as quickly as possible, to allow projects to proceed on the basis of those decisions.
26. The rationale for offering an 18 month grace period for both dedicated biomass CHP and dedicated biomass power-only is that dedicated biomass projects have been delayed by Government decisions on support for this technology and projects which might otherwise already have deployed are therefore now expected to commission close to the RO closure date. Dedicated biomass power-only will not be able to access the CfD, and therefore a longer grace period was deemed appropriate to cover the additional risk to these projects of missing the RO closure date and finding themselves without access to support. On the basis of consultation responses, we have extended access to this grace period to dedicated biomass CHP, on the grounds that this technology has suffered the same delays as dedicated biomass power-only, and that there could be a perverse incentive for CHP plants to dump their heat offtake in order to access the power-only grace period if they are not able to access it in their own right. CHP is a more efficient usage of biomass which the Government wishes to support.
27. Some consultation responses requested further extensions of grace periods. However, Government is of the opinion that those set out above provide sufficient certainty for individual developers to overcome the risk of investment hiatus.

## Technology-Specific Measures

### Biomass

28. RO accredited biomass low-range, mid-range and high co-firing plants will have the option of applying for a CfD as a conversion (as long as they have not previously claimed dedicated biomass or conversion ROCs). They had the same option of applying for an Investment Contract under FID Enabling when applications for FID Enabling were still open. Such plants will be able to receive CfD/IC support until 2027, so will be receiving a variable length of support depending on the moment of conversion. Incentives to convert depend on the costs of converting and the benefits that it will bring. As such, generators are likely to make an assessment of the best moment to convert based on individual plant or unit circumstances to maximize their benefits. In general, converting early would allow

generators to get a longer total period of support under either the RO or CfDs. This option maintains the incentive for operators of co-firing biomass plants to move towards full conversion.

29. The same conversion opportunity applies to RO-accredited biomass co-firing plants converting on a unit-by-unit basis. RO accredited plants converting a further unit can choose between the RO and a CfD. If a plant has units under both the RO and units with a CfD, it will operate as a dual scheme facility. This means that it will have to incur the related costs as described earlier in this annex.
30. RO-accredited biomass co-firing plants or units will be entitled to a one-off choice of scheme between remaining within the RO and bidding into the Capacity Mechanism. A successful bid for the capacity mechanism will lead to their exit from the RO. As the capacity mechanism offers only brief periods of support in comparison to the RO (see CM publications for full details), such generators would be likely to receive less support overall than if they had stayed in the RO, unless they chose to bid for further participation in the CM and were successful in such bids. Depending on the risk assessment that generators make, this might lead to a decision to stay in the RO rather than bidding into the capacity mechanism.

### Offshore Wind Phasing

31. The decisions outlined in this Government Response allows operators to apply for a CfD for one or more unregistered phases at an RO-accredited offshore wind station which is being constructed in phases. This flexibility acknowledges the fact that such stations may be constructed over several years, and are also at greater risk of delay e.g. due to the weather, and therefore the transition from the RO to the CfD may have a higher impact on investment decisions in relation to these stations than for projects which can be constructed more quickly.
32. If a station has some offshore wind phases within the RO and other phases within the CfD, it will be subject to the Dual Scheme Facility rules outlined elsewhere, with corresponding costs attached.

### Fixed Price Certificate

33. The analysis around Fixed Price Certificates is discussed in the Impact Assessment on the Renewables Obligation Transition.<sup>16</sup>

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<sup>16</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/197910/renewables\\_obligation\\_transition\\_ia.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/197910/renewables_obligation_transition_ia.pdf)



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Department of Energy & Climate Change  
3 Whitehall Place  
London SW1A 2AW  
[www.decc.gov.uk](http://www.decc.gov.uk)

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