

PARLIAMENTARY DEBATES

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OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT CONTRACTS FOR DIFFERENCE (MISCELLANEOUS AMENDMENTS) REGULATIONS 2018

Wednesday 11 July 2018

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The Committee consisted of the following Members:

Chair: SIR DAVID AMESS

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| † Antoniazzi, Tonia (<i>Gower</i>) (Lab) | Kinnock, Stephen (<i>Aberavon</i>) (Lab) |
| † Badenoch, Mrs Kemi (<i>Saffron Walden</i>) (Con) | † Lopresti, Jack (<i>Filton and Bradley Stoke</i>) (Con) |
| † Berger, Luciana (<i>Liverpool, Wavertree</i>) (Lab/Co-op) | † Reeves, Ellie (<i>Lewisham West and Penge</i>) (Lab) |
| † Brown, Alan (<i>Kilmarnock and Loudoun</i>) (SNP) | † Robinson, Mary (<i>Cheadle</i>) (Con) |
| † Charalambous, Bambos (<i>Enfield, Southgate</i>) (Lab) | † Seely, Mr Bob (<i>Isle of Wight</i>) (Con) |
| † Docherty, Leo (<i>Aldershot</i>) (Con) | † Smith, Nick (<i>Blaenau Gwent</i>) (Lab) |
| † Duguid, David (<i>Banff and Buchan</i>) (Con) | † Spelman, Dame Caroline (<i>Second Church Estates Commissioner</i>) |
| † Griffiths, Andrew (<i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i>) | † Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab) |
| † Harris, Rebecca (<i>Lord Commissioner of Her Majesty's Treasury</i>) | Mike Everett, <i>Committee Clerk</i> |
| | † attended the Committee |

Fifth Delegated Legislation Committee

Wednesday 11 July 2018

[SIR DAVID AMESS *in the Chair*]

Draft Contracts for Difference (Miscellaneous Amendments) Regulations 2018

2.30 pm

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Andrew Griffiths): I beg to move,

That the Committee has considered the draft Contracts for Difference (Miscellaneous Amendments) Regulations 2018.

The draft instrument makes three separate changes to the existing contracts for difference regulations. First, it amends the Contracts for Difference (Allocation) Regulations 2014 to establish remote island wind projects as a category of technology that is eligible to take part in the CfD scheme and compete alongside other less established technologies. In doing so, it delivers on a manifesto and clean growth strategy commitment.

Secondly, the regulations remove from the Contracts for Difference (Definition of Eligible Generator) Regulations 2014 the requirement for certain generators to intend to accredit their project under the combined heat and power quality assurance standard. That minor amendment will facilitate the delivery of future CfD allocation rounds and is not otherwise expected to impact on the operation of the CfD scheme.

Thirdly, the regulations update the definition of “waste” in the definition of eligible generator regulations. That ensures that generators are not incentivised to intentionally modify or contaminate biofuels in order to avoid the application of sustainability criteria that would otherwise apply.

We are proposing the legislative changes following a 12-week public consultation earlier this year, during which they received broad support. The CfD scheme is designed to offer long-term price stabilisation to new low-carbon generators, allowing investment to come forward at a lower cost of capital and, therefore, at a lower cost to consumers—something I think we would all welcome.

The scheme typically sees support contracts awarded in a competitive auction process, which ensures that costs to consumers are kept to a minimum. The technologies that are eligible to take part in the CfD scheme are categorised in two distinct groups or pots, as they are known. Pot 1 contains the more mature technologies, such as solar PV, which typically require less support, whereas pot 2 contains the less mature technologies, such as offshore wind, which typically require more support.

The scheme has been successful in bringing forward significant new investment in large-scale renewable generation. The two previous CfD auctions should deliver more than 5 GW of renewable electricity capacity

by the early 2020s, helping us to meet our decarbonisation targets. We plan to open the next one in spring next year and are laying the regulations today to give certainty to businesses in advance of that.

I will briefly describe each of the three amendments in turn. The first amendment will make remote island wind projects eligible for pot 2 auctions. The Government confirmed in the clean growth strategy our intention that wind projects on remote islands that are expected directly to benefit local communities would be eligible for the next pot 2 auction.

Those projects have certain unique characteristics that set them apart from wind projects elsewhere in the UK, including higher costs. It is, therefore, appropriate for remote island wind projects to be recognised as a distinct technology within the CfD scheme; one that is subject to its own administrative strike price—a maximum price—and eligible to take part in pot 2 auctions, alongside other less established technologies.

The regulations set out the criteria that projects must satisfy to constitute a remote island wind project for the purposes of the CfD scheme. Those criteria have been carefully selected to ensure that remote island wind projects are sufficiently remote to be subject to more challenging operating conditions, as well as to increased network-related costs.

Allowing remote island projects to compete alongside other less established technologies in pot 2 would allow developers to build on the falling cost of onshore wind and provide a further boost to the supply chain. More than 750 MW of wind projects in the Western Isles, Orkney and Shetland could be eligible for the next auction. If successful, they could deliver long-term benefits to the UK.

Alan Brown (Kilmarnock and Loudoun) (SNP): I welcome those opportunities for the Scottish highlands. Will the Minister give us the timescale for when the next pot 2 auction will open?

Andrew Griffiths: Indeed, I will come to that in the course of my speech.

The second amendment will remove the requirement for certain generators to intend to accredit their projects under the combined heat and power quality assurance standard. The CfD scheme currently supports only two types of projects—dedicated biomass and energy from waste—if they are built with combined heat and power. The Contracts for Difference (Definition of Eligible Generator) Regulations 2014 require developers of such projects who want to be eligible to apply for CfDs to intend to accredit their projects under issue 6 of the combined heat and power quality assurance standard, usually referred to as the CHPQA. I have tried to eradicate TLAs—three-letter abbreviations—within the Department, Sir David, but they do creep into the speech. I am sure you will understand.

The Department recently launched and responded to a consultation on options to replace issue 6 of the CHPQA standard. The incoming replacement will include increased efficiency reference values against which future CfD-supported CHP projects will be assessed. The regulations will remove the requirement to intend to accredit from the legislation. Developers will still have to accredit their projects under the CHPQA standard to

receive CfD support, but that will instead be specified in the contract terms with which developers have to agree and comply to receive CfD support.

The amendment will not have a practical impact on the CfD scheme's operation, because in practice a developer's intention to comply with the CHPQA's requirements is not capable of being meaningfully tested at this stage in the CfD application process, long before a plant is built.

The hon. Member for Kilmarnock and Loudoun asked for the timescale for the next pot 2 allocation, which is of particular interest to him and his colleagues north of the border. We have put on record, and I am happy to confirm, that the next pot 2 auction will be held in spring 2019. That gives the industry enough time to be aware of the auction, put schemes together and make sufficient proposals. It also shows an urgency to support those remote islands with cheap renewable energy.

The third and final amendment concerns a minor change to the definition of the term "waste" in the Contracts for Difference (Definition of Eligible Generator) Regulations 2014. It is relevant only to technologies that may use waste as a fuel to generate electricity. The amendment simply makes it clear that substances that are deliberately modified or contaminated to try to bring them within the definition of waste will not constitute waste. That prevents the gaming of the system and will ensure that we do not inadvertently encourage generators to modify or contaminate biofuels to avoid the application of sustainability criteria that would otherwise apply.

The legislative changes in the regulations need to be made ahead of the next CfD allocation round, which is planned for spring 2019, so that developers have certainty as to who will be eligible to take part and on what basis. Subject to the will of Parliament, the regulations will come into force on the day after they are made. I commend them to the Committee.

2.39 pm

Dr Alan Whitehead (Southampton, Test) (Lab): It is a pleasure to serve under your chairmanship, Sir David.

As the Minister has set out, a number of amendments—some small, some large—have been gathered together under the heading Contracts for Difference (Miscellaneous Amendments) Regulations 2018. We have therefore already booked that title for this year, and should other portmanteau proposals come forward, presumably we will have to think of a different title for a future statutory instrument.

The miscellaneous amendments have different weights attached to them, and perhaps I can make progress if I apply very little weight to the two amendments that concern CHP plants and waste. To some extent we have discussed those amendments before, and they relate—among other things—to a desire to ensure that only the most efficient CHP plants obtain CfD arrangements, while at the same time enabling those CHP plants to distinguish between what they do for heat and what they do for power. Previously that balance was not quite right, and the amendments make a positive change in that direction. The amendment on waste makes a positive change by ensuring that what is done regarding sustainability criteria for fuel is properly carried out. Those amendments have two big ticks in the miscellaneous

box and we need pay them no further attention, important though they are to the lives of future CHP plants.

The third amendment is a little less miscellaneous, and we need to understand what it seeks to do. The amendment would bring onshore wind back into place in the United Kingdom, and I suspect that that is the subject of rather more internal discussion on the Government Benches than on the Opposition Benches. Labour Members would love onshore wind to come back across the United Kingdom, as long as any concerns are addressed, there is community agreement to the onshore plants, proper planning arrangements are undertaken and proper value for money is obtained. We know, I think, that moves are afoot by the Government, and those who would take substantially the same position, to move such arrangements forward. As far as I can see, on this occasion it was decided to bring back some onshore wind where it was felt that such schemes were already in the pipeline. As the Minister said, a number of schemes could proceed rapidly and fruitfully, and if those schemes could be unleashed, we could have onshore wind in those areas.

The problem is that if we are trying to do that without actually bringing onshore wind back as such, we need a device to do it. The device used here is to say that those places where onshore wind might come back must be defined as a remote island. The problem that then arises is what constitutes a remote island. If a remote island is defined in a careless way, we might find that onshore wind is brought back in places where it was not intended.

Secondly, since onshore wind has for a long time been approved under state aid arrangements by the EU, bringing it back by creating a different category called remote island wind means that state aid clearance must, effectively, be applied for all over again. It would not be possible to apply specifically for onshore wind to come back on stream only on certain islands; that would certainly not get state aid approval, because area-specific arrangements cannot be declared for state aid clearance. It would be necessary to say that in principle it could be anywhere, and then define things to narrow it down to the desired result. In this instance, that result would be the Hebrides, the Shetlands and the Orkneys.

Things then get a little amusing, because on looking at the definition of what a remote offshore island is, we can see the wheels going round. It starts by saying, "It has to be an island." Well, the hon. Member for Isle of Wight is in his place this afternoon; it might include the Isle of Wight. However, the Isle of Wight is of course in England, and the present policy arrangements probably would not include suddenly covering the Isle of Wight with wind farm applications.

Mr Bob Seely (Isle of Wight) (Con): The hon. Gentleman is kind to mention the Isle of Wight, but I hope he is not implying that we are remote.

Dr Whitehead: The hon. Gentleman strikes the nail on the head, because the regulations progressively exclude the Isle of Wight from the definition. The first criterion is that the remote island needs to be connected by a cable to the mainland, but not by any old cable. It must be a 50 km cable to a main joining point for the national grid or the distributing grid and, furthermore, 20 km of

[*Dr Whitehead*]

that cable has to be under the sea. There is not a 20 km undersea cable between the Isle of Wight and where the interconnector to the Isle of Wight lands, near my constituency in Southampton. So that is the Isle of Wight out of the question.

The second criterion is that the remote island has to be 10 km away, along all of its coastline, from the mainland. That also eliminates the Isle of Wight, as well as Anglesey and a number of other places. So that is sorted out.

Gradually, by a process of elimination, the point that the Government wanted to get to is reached: the only qualifying islands happen to be the Hebrides, the Shetlands and the Orkneys. There we have remote island wind by definition, without saying what a remote island is. Well done to the Government for getting to that position—the introduction of onshore wind without actually introducing onshore wind. It is quite clever.

In order to make a separate category, however, it is necessary to compare the situation with what would be the case for onshore wind, which already has state aid, and differentiate the two. Indeed, the impact assessment does just that. In an interesting passage, it states:

“The Government considers that the higher costs faced by RIW projects mean that at present they would find it difficult to effectively compete with the more established technologies in Pot 1, including ‘mainland’ onshore wind projects”,

none of which exist, of course, because they are banned. An impact assessment has been carried out comparing remote island wind with onshore wind, when there is nothing to compare with at the moment because there is none, in order to justify a marginally higher administrative CfD than would be the case were it simply to be defined as a variant of onshore wind in general.

Consequently, what we have here is onshore wind coming back potentially at a higher cost than would have been the case had onshore wind come back with the variation, with the overall state aid approval being as it was for onshore wind as a whole. This move, smart though it is, is not without potential cost. I hope the CfDs that come forward under pot 2 will be very competitive; I am sure they will be, because onshore wind has come down to such an extent that there may even be a net nil cost for the administrative CfDs that will be put forward. We hope that that will be the case but, in principle, a mechanism has been put in place, because of this particular convoluted definition, to implant a little more expense in the process than would otherwise be the case.

The other thing I ought to mention in passing is that, smart though this mechanism is, it is not entirely perfect in terms of English onshore wind. Onshore wind is banned across England—I think we agree that that is the case—except, now, for one place, which is the Isles of Scilly. They have an undersea cable of more than 50 km—in fact, they have a cable of 55 km to the agreed connection—more than 20 km of which is under the sea, and they are 23 miles off the coast of Cornwall. We will have inadvertently restored onshore wind to England this afternoon. Admittedly, I should not be taken as advocating in any shape or form the placing of wind farms on the Isles of Scilly, but that is what we appear in principle to be doing.

As the Minister can gather, I am one-third delighted by this move, one-third amused by the hoops and reverse somersaults that we have had to go through in order to achieve it, and one-third concerned that the much easier process—to bring onshore wind back in one way or another, with proper constraints, planning arrangements and care—has not been undertaken.

In that context, I ask the Minister one question on the whole process. I do not expect him to stand up and agree with my analysis of exactly why this has been done, but it is the case that state aid approval was applied for, I think, for this particular subset definition. I think it is also the case that the European Commission has informally told the UK that it would not object to this being put in as a sub-definition. I am not clear whether anything formal has yet come from the EU to the UK saying, “Not only will we not object, but we will stamp this as far as state aid approval is concerned.” I would be grateful if the Minister confirmed whether that is the case.

After all that, we will not seek to divide the Committee this afternoon. I merely place on the record the recommendation that the next step, should there be a further statutory instrument containing miscellaneous amendments, should be to bring onshore wind back properly, with proper community protections, to ensure that we get the benefits and savings from onshore wind that many of us in this Chamber want to see and find that we are prevented from enjoying.

2.55 pm

Alan Brown: It is a pleasure to serve under your chairmanship, Sir David. We certainly welcome the changes, particularly to remote island wind, which the Scottish National party has been calling for for a while. I am pleased that the Government have listened and are taking action on that. If I were churlish, I would say that it is not before time, but anyone who knows me knows that I am not churlish, so I will not complain about the timeframe.

The Minister explained how the evolution of technologies has brought down the costs of capital, and I completely agree. It has been great to see the cost of onshore and offshore wind decrease dramatically, but we have to look at that in the context of Government policies on nuclear and its astronomical costs. In a Westminster Hall debate this morning, I highlighted that we are stuck with £120 billion of decommissioning costs, of which £91 billion are at Sellafield. We have got the Hinkley Point C project, which has a strike price of £92.50 per megawatt-hour for 35 years. That compares with a strike price of £57.50 for a 15-year CfD at the last offshore auction. It is clear that renewables are much more cost-effective and are completely green, rather than just reducing carbon, as nuclear does.

The hon. Member for Southampton, Test certainly worked his way around his assessment of the remote island wind definition. I am not too fussed about that, so long as the Scottish highlands get a bite of the cherry. That is all I care about, and I look forward to that. I certainly do not have any concerns about state aid. If Hinkley can pass EU state aid rules, I am sure the islands can. In the long run, it would be good to see Government assistance on and investment in additional interconnector cables between the remote islands and

the mainland, because that would free up additional opportunities and help support the mainland national grid.

I have one question for the Minister. At Scottish questions this morning, I asked about onshore wind in Scotland being able to bid in future auctions. The response I got was that there would be an announcement soon. Can he provide some clarity? I welcome the changes and look forward to the remote islands benefiting.

2.57 pm

Andrew Griffiths: I often think that when all sides of the House agree on something it is time to be concerned, but in this particular case I think not. All sides of the House agree on the importance of renewable energy, the importance of the Government investing in its provision and the importance of providing people, particularly those on remote islands, with access to cheap renewable energy. We come together in this Committee to support the Government's intention to deliver that.

I am grateful to the hon. Member for Southampton, Test, who has yet again demonstrated his vast knowledge and experience. There are few in this House who have paid more attention, done more study or are as informed as him. I am grateful to him for the points he raised. He paints a picture of some elaborate ruse being the reason for bringing forward the SI today. If he can concoct conspiracy theories in that way, I would be interested in his views on who shot JFK, whether Elvis is still alive and whether there is a world war two bomber on the moon. Those are the kinds of conspiracy theories we need to address. I reassure him that the Government's intention with this SI is to introduce practical remedies to ensure the provision of renewable energies to remote islands across the country.

Dr Whitehead: I assure the Minister that if there is any conspiracy in this, as I sought to set out in my remarks, it is the most benign of conspiracies. If it is one, it is one that we can support in a conspiratorial way.

Andrew Griffiths: I thank the hon. Gentleman not only for his comments, but for his wholehearted support for these measures.

He raised some important questions. He asked whether we will need state aid approval for remote islands. I am the Minister responsible for competition policy in the Department for Business, Energy and Industrial Strategy, and I confirm that we have state aid approval for the inclusion of remote island wind as defined using this criteria. He asked whether the Commission had granted that. It has granted that state aid approval; that was published by the Commission in February of this year. I hope that reassures the hon. Gentleman on any concerns he has about the approval process for state aid.

The hon. Gentleman also asked about the definition of remote islands and whether that excludes English islands. As he will know—I am sure he has seen the map in the consultation document published in December—a small number of remote islands off the coast of England and Wales could satisfy the criteria, but we do not envisage at this stage more projects coming forward. In practice, the only planned projects that we are currently

aware of that might meet the definition of remote island wind are in Orkney, Shetland and the Western Isles.

The hon. Gentleman alluded to pot 1 and onshore wind. No decisions have been taken on running another allocation round for pot 1 technologies at present.

Alan Brown: The Minister is saying that no decision has been made about pot 1 future auctions. Does that mean that the response I got at Scottish questions today about possible onshore wind in Scotland being eligible for future auctions was not correct?

Andrew Griffiths: I am not saying that at all; I am saying that I am not in a position at this stage to give the hon. Member for Kilmarnock and Loudoun the reassurances he seeks. I absolutely understand why he asked the question, and his aspirations in relation to those projects, but I am unable to give him the solution he seeks at this present time.

Successful remote island wind projects will require the construction of new transmission links. The point that the hon. Member for Kilmarnock and Loudoun makes about interconnectors is a salient one. It is one that the Department is well aware of and it is looking at. Transmission links that wave and tidal projects would also be able to use are important. Establishing new transmission routes could therefore help unlock the potential of other innovative new technologies. The Government clearly have to be the catalyst to bring on those disruptive technologies.

Dr Whitehead: For brief clarification on new links being developed, my understanding is that Shetland does not currently have an established interconnector link but shortly will have. Until such a link is finally established, Shetland does not technically qualify as a remote island under the headings put forward in the text of the SI. However, when that link is built, it will qualify, but the link may be built because it has some wind that has qualified. There appears to be a potential chicken and egg problem there. I am sure that the Minister is on the right side of the egg or the chicken, but might he clarify that point?

Andrew Griffiths: That is absolutely right. The phrase that the hon. Gentleman used is most apposite: "shortly". We hope that the facility will be in place quickly, and that will allow the completion of such projects to proceed.

Finally, the independent energy regulator, Ofgem, assesses the need for transmission investment based on a proposal developed and submitted by the relevant transmission owner. The transmission owner for the relevant part of Scotland has already submitted its proposal for Orkney to Ofgem, and we understand that it will submit proposals for the Western Isles and Shetland later this year. Remote island wind is a key part of the needs cases.

The Government are committed to cutting emissions, increasing efficiency and helping to lower the amount that consumers and businesses spend on energy across the country, in conjunction with supporting economic growth as part of our modern industrial strategy. The draft regulations implement changes to the contracts for difference scheme to enable it to continue to support

[Andrew Griffiths]

new renewable generation and to provide best value for bill payers in the coming years. I commend the regulations to the Committee.

Question put and agreed to.

Resolved,

The Committee has considered the draft Contracts for Difference (Miscellaneous Amendments) Regulations 2018.

3.6 pm

Committee rose.