

*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 15. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 15

Section 203

#### COMPETITIVE TENDERS FOR ELECTRICITY PROJECTS

##### PART 1

##### AMENDMENTS OF ELECTRICITY ACT 1989

1 The Electricity Act 1989 is amended as follows.

##### Commencement Information

II Sch. 15 para. 1 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

2 After section 6B insert—

##### “6BA Meaning of “relevant electricity project”, “relevant licence” and “relevant contract”

- (1) In this Part, “relevant electricity project” means a project—
  - (a) that relates to the total system, an electricity interconnector or a multi-purpose interconnector, and
  - (b) in relation to which criteria specified in regulations made by the Secretary of State are satisfied.
- (2) In subsection (1)(a), “the total system” means all transmission systems and distribution systems in Great Britain and offshore waters.
- (3) In this Part, “relevant licence” means—
  - (a) a transmission licence that does not authorise the licence holder to co-ordinate and direct the flow of electricity as described in section 4(3A)(a);
  - (b) a generation licence, a distribution licence, an interconnector licence or an MPI licence.
- (4) In this Part, “relevant contract” means a contract, entered into by a person with the holder of a transmission licence, a system operator electricity licence or a distribution licence (referred to in this Part as a “contract counterparty”), for the carrying out of a relevant electricity project.
- (5) Regulations under this section may make different provision for different purposes.
- (6) Before making regulations under this section, the Secretary of State must consult—
  - (a) the Authority,

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- (b) such holders of relevant licences as the Secretary of State considers appropriate, and
- (c) such other persons as the Secretary of State considers appropriate.

### **6BB Designation of a delivery body**

- (1) The Secretary of State may by regulations designate a person for the purposes of this section; and a person so designated is referred to in this Part as a “delivery body”.
- (2) The designation of a person for the purposes of this section has effect subject to any conditions imposed by the Secretary of State in the regulations designating the person.
- (3) More than one person may be designated for the purposes of this section at the same time.
- (4) Regulations under this section may designate different persons for different purposes.
- (5) The Secretary of State may by regulations revoke a person’s designation if the person ceases to meet any condition subject to which the designation has effect.
- (6) The Secretary of State may make indemnity payments to a delivery body (subject to subsection (9)).
- (7) An indemnity payment is a payment in respect of costs or expenses incurred by a delivery body in connection with judicial review proceedings in relation to anything done, or omitted to be done, in the exercise (or purported exercise) of functions conferred on the body by regulations under section 6C.
- (8) An indemnity payment may be made subject to such conditions as may be determined by the Secretary of State.
- (9) Subsection (6) does not authorise the making of a payment to the Authority (where it is designated under subsection (1)).”

<p><b>Commencement Information</b></p> <p><b>I2</b> Sch. 15 para. 2 in force at Royal Assent, see <a href="#">s. 334(2)(i)</a></p>
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3 For sections 6C and 6D substitute—

### **“6C Competitive tenders**

- (1) The Authority may by regulations (“tender regulations”) make such provision as appears to it to be appropriate for facilitating the making by a delivery body of—
  - (a) a decision whether to hold a tender exercise in relation to a relevant electricity project;
  - (b) in prescribed circumstances, a determination on a competitive basis of any of the matters listed in subsection (2).
- (2) Those matters are—

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- (a) the person by whom a relevant electricity project is to be carried out;
  - (b) the person to whom a relevant licence is to be granted (whether for the purposes of a relevant electricity project or otherwise);
  - (c) the person to whom a relevant contract is to be awarded.
- (3) The provision mentioned in subsection (1) includes—
- (a) provision for the Authority to determine, in prescribed cases, whether a tender exercise should be held, or continued, in relation to a relevant electricity project;
  - (b) provision for the publication, in prescribed cases, of a proposal for a relevant licence to be granted or for a relevant contract to be awarded;
  - (c) provision for the inclusion in such a proposal of an invitation to apply for such a licence or to bid for such a contract;
  - (d) provision restricting applications and bids and imposing requirements as to the period within which they must be made;
  - (e) provision for regulating the manner in which applications and bids are considered and determined.
- (4) The provision mentioned in subsection (1) also includes—
- (a) provision conferring functions on a delivery body;
  - (b) provision authorising the Authority to conduct a review of the exercise by a delivery body of functions conferred on it by the regulations;
  - (c) provision authorising the Authority to appoint another person to conduct such a review on the Authority's behalf.
- (5) The provision that may be made by virtue of subsection (4)(a) includes provision requiring a delivery body, in prescribed circumstances, to provide information about prescribed matters to the Authority.
- (6) Tender regulations—
- (a) may make provision by reference to a determination by the Authority or by a delivery body, or to the opinion of the Authority or of a delivery body, as to any matter;
  - (b) may dispense with or supplement provision made in relation to applications for relevant licences by or under section 6A or 6B.
- (7) The approval of the Secretary of State is required for the making of tender regulations.
- (8) The making of a determination by virtue of subsection (2)(b) or (c) that a person is to be granted a relevant licence or awarded a relevant contract does not of itself require—
- (a) the Authority to exercise its power to grant a relevant licence to the person, or
  - (b) a contract counterparty to award a relevant contract to the person, (as the case may be).

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### **6CA Power to require information**

- (1) Tender regulations may include provision authorising a person to whom subsection (2) applies (“P”), by notice given to another person (an “information notice”), to require the other person to provide relevant information to P.
- (2) This subsection applies to—
  - (a) the Authority;
  - (b) a delivery body;
  - (c) a contract counterparty.
- (3) “Relevant information” means information that P reasonably requires for the purposes of or in connection with the exercise of P’s functions.
- (4) References in this section to the Authority include a person appointed by the Authority by virtue of section 6C(4)(c), where the information sought relates to a function conferred by virtue of section 6C(4)(b) (review of activities of delivery body).
- (5) Provision made by virtue of subsection (1) must require an information notice—
  - (a) to specify or describe the information sought, and
  - (b) to specify the time by which the information must be provided.
- (6) Provision made by virtue of subsection (1) may include provision—
  - (a) for an information notice and information obtained in pursuance of it to be shared with the Authority, where the notice is given by a person other than the Authority;
  - (b) for the classification and protection of confidential or sensitive information;
  - (c) for the enforcement by the Authority of a requirement to provide information in pursuance of an information notice;
  - (d) for the amount of any financial penalty imposed on a person by virtue of paragraph (c) to be determined by the Authority in accordance with tender regulations.
- (7) Where by virtue of subsection (6)(c) tender regulations provide for the imposition of a financial penalty, they must also include provision for a right of appeal against the imposition of the penalty.

### **6CB Recovery of tender costs**

- (1) Tender regulations may include provision requiring—
  - (a) the payment to the Authority or a delivery body, in prescribed circumstances, of amounts in respect of—
    - (i) tender costs of the Authority, or of the delivery body, in relation to a tender exercise;
    - (ii) such amounts in respect of the Authority’s tender costs as the Authority considers appropriate, where those costs are not attributable to a particular tender exercise;

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- (iii) such amounts in respect of the delivery body's tender costs as the Authority considers appropriate, where those costs are not attributable to a particular tender exercise.
  - (b) the provision to the Authority or to a delivery body, in prescribed circumstances, of a deposit of a prescribed amount in respect of a liability which a person has, or may in future have, by virtue of paragraph (a) in relation to a relevant licence or relevant contract;
  - (c) the provision to the Authority or to a delivery body, in prescribed circumstances, of security in a form approved by it in respect of such a liability.
- (2) The provision that may be made by virtue of subsection (1)(a) includes provision requiring the payment of cost assessment costs incurred by—
  - (a) the Authority, or
  - (b) the delivery body,after the Authority or delivery body (as the case may be) has taken the steps required by virtue of subsections (7) to (9) in relation to the tender exercise.
- (3) The regulations may require the payments to be made, or the deposit or security to be provided, by one or more of the following—
  - (a) any person who has made a connection request for the purposes of which the tender exercise has been, is being, or is to be, held;
  - (b) any person who made a connection request for the purposes of which any previous tender exercise relating to the same transmission system, or a transmission system consisting of some or all of the same lines or plant or connecting any of the same generating stations or substations, was held;
  - (c) any person who made a connection request for the purposes of which any previous tender exercise relating to the same distribution system, or a distribution system consisting of some or all of the same lines or plant or connecting any of same premises or other distribution systems, was held;
  - (d) any person who operates a generating station which is connected to the transmission or distribution system to which the tender exercise relates;
  - (e) any person who submits an application for the relevant licence or bids for the award of a relevant contract to which the tender exercise relates;
  - (f) any person who is the holder of a transmission licence, a distribution licence, an interconnector licence or an MPI licence.
- (4) The regulations may make provision about how—
  - (a) payments are to be made, and
  - (b) deposits or other forms of security are to be provided,including provision for them to be made or provided by a person approved by the Authority or by a delivery body.
- (5) The regulations may include provision about—
  - (a) the times at which payments are to be made, or deposits or other forms of security are to be provided, under the regulations;

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- (b) the circumstances in which a payment made in accordance with regulations made by virtue of subsection (1)(a) is to be repaid (wholly or in part);
  - (c) the circumstances in which such a repayment is to include an amount representing interest accrued on the whole or part of the payment;
  - (d) the circumstances in which a deposit (including any interest accrued on it) or other security provided in accordance with the regulations is to be released or forfeited (wholly or in part);
  - (e) the effect on a person's participation in the tender exercise of a failure to comply with a requirement imposed by virtue of this section, and the circumstances in which the tender exercise is to stop as a result of such a failure.
- (6) The regulations may include provision for—
- (a) the review by the Authority, or by a person appointed by the Authority, of any tender costs determined by a delivery body;
  - (b) the amendment by a delivery body of its tender costs following such a review.
- (7) The regulations must ensure that, as soon as reasonably practicable after a tender exercise or series of tender exercises is finished—
- (a) where the Authority is the delivery body, steps are taken by the Authority, in accordance with the regulations, to ensure that the aggregate of the amounts in subsection (9) does not exceed the Authority's tender costs in respect of the exercise or series of exercises;
  - (b) in any other case, steps are taken by the delivery body, in accordance with the regulations, to ensure that the aggregate of the amounts in subsection (9) does not exceed the aggregate of—
    - (i) the Authority's tender costs, and
    - (ii) the delivery body's tender costs,
 in respect of the exercise or series of exercises.
- (8) The regulations must also ensure that, in a case within subsection (7)(b), the aggregate of the amounts within subsection (9) so far as relating to any particular tender exercise does not include any amount that falls within paragraph (a) of the definition of tender costs in section 6CD(4) in relation to a different tender exercise.
- (9) The amounts are—
- (a) any fees under section 6A(2) in respect of applications for relevant licences,
  - (b) any payments made or deposits provided in accordance with regulations made by virtue of subsection (1)(a) or (b) and not repaid, and
  - (c) the value of any security provided in accordance with regulations made by virtue of subsection (1)(c) and forfeited in accordance with regulations made by virtue of subsection (5)(d),
- so far as relating to the tender exercise or series of tender exercises in question.

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## **6CC Competitive tenders: supplementary**

- (1) For the purposes of section 6CB(3), a person makes a connection request when the person makes an application to—
  - (a) the holder of a co-ordination licence (in accordance with any provision made by the licence) for an offer of connection to and use of a transmission system, or
  - (b) an electricity distributor (whether in accordance with any provision made by the distributor’s licence or otherwise) for an offer of connection to and use of the distributor’s distribution system.
- (2) A person (“P”) is to be treated for those purposes as having made a connection request if—
  - (a) P would have made the connection request, but for the fact that another person had already made an application within subsection (1)(a) or (b), and
  - (b) the benefit of that application, or any agreement resulting from it, is vested in P.
- (3) Where tender regulations—
  - (a) restrict the making of applications for relevant licences or bids for relevant contracts in relation to a relevant electricity project, or
  - (b) operate so as to prevent an application or bid from being considered or further considered, if the applicant does not meet one or more prescribed requirements,the regulations may make provision enabling a person to apply to a relevant body for a decision as to the effect of any such restriction or requirement if the person were to make such an application or bid.
- (4) Regulations made by virtue of subsection (3) may enable a relevant body to charge a person who makes such an application or bid a prescribed fee for any decision given in response to it.
- (5) Where the successful bidder, in relation to a tender exercise, already holds a relevant licence (“the existing licence”)—
  - (a) the Authority may make such modifications of the existing licence as are necessary for the purpose of giving effect to the determination resulting from the tender exercise, and
  - (b) references in this Part to the grant of a relevant licence are to be read accordingly.
- (6) Before making any modifications under subsection (5)(a), the Authority must give notice—
  - (a) stating that it proposes to make the modifications and setting out their effect, and
  - (b) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,and must consider any representations or objections that are duly made and not withdrawn.

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- (7) Any sums received by the Authority under tender regulations are to be paid into the Consolidated Fund.
- (8) In section 6CB and this section—
- “co-ordination licence” means a transmission licence which authorises a person to co-ordinate and direct the flow of electricity onto and over a transmission system—
- (a) by means of which the transmission of electricity takes place, and
- (b) the whole or a part of which is at a relevant place (within the meaning of section 4(5));
- “functions” includes powers and duties;
- “relevant body” means the Authority, a delivery body or a contract counterparty.

#### **6CD Sections 6C to 6CC: further definitions**

- (1) This section defines expressions that are used in sections 6C to 6CC (as well as in this section).
- (2) “Prescribed” means prescribed in or determined under tender regulations.
- (3) “Tender exercise” means the steps taken in accordance with tender regulations with a view to determining one or more of the following—
- (a) the person by whom a relevant electricity project is to be carried out;
- (b) the person to whom a relevant licence is to be granted;
- (c) the person to whom a relevant contract is to be awarded.
- (4) “Tender costs” means—
- (a) costs (including any cost assessment costs) incurred or likely to be incurred by the Authority for the purposes of a particular tender exercise or prospective tender exercise;
- (b) costs (including any cost assessment costs) incurred or likely to be incurred by a delivery body for the purposes of a particular tender exercise or prospective tender exercise;
- (c) such proportion as the Authority considers appropriate of the costs that—
- (i) have been, or are likely to be, incurred by the Authority or by a delivery body under regulations under section 6C, and
- (ii) are not directly attributable to a particular tender exercise.
- (5) “Cost assessment costs”, in relation to a tender exercise, means costs incurred or likely to be incurred by the Authority or by a delivery body in connection with any assessment of—
- (a) costs that have been or are to be incurred in connection with any property, rights or liabilities necessary or expedient for the performance by a person of functions under a relevant licence granted or a relevant contract awarded to the person as a result of the tender exercise;
- (b) costs incurred in connection with any property, rights or liabilities that would have been necessary or expedient for the performance



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of functions under a relevant licence or a relevant contract if such a licence or contract had been granted or awarded to a person as a result of the tender exercise.

- (6) “Successful bidder”, in relation to a tender exercise, is the person in respect of whom (as a result of the exercise) any of the following applies—
- (a) a delivery body determines that a relevant electricity project is to be carried out by the person;
  - (b) a relevant licence has been or is to be granted to the person;
  - (c) a relevant contract has been or is to be awarded to the person.
- (7) Section 6C(8) applies for the purposes of subsections (3)(b) and (c) and (6)(b) and (c) as it applies for the purposes of section 6C(2)(b) and (c).”

**Commencement Information**

**I3** Sch. 15 para. 3 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 4 In section 6E (property schemes)—
- (a) for “offshore transmission licences” substitute “relevant licences and awards of relevant contracts”;
  - (b) in the heading, for “offshore transmission licences” substitute “relevant licences and contracts”.

**Commencement Information**

**I4** Sch. 15 para. 4 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 5 (1) Section 6F (offshore transmission during commissioning period) is amended as follows.
- (2) In subsection (2), for “an offshore” substitute “a”.
- (3) In subsection (4)—
- (a) at the beginning insert “In relation to an offshore transmission system,”;
  - (b) in paragraph (a), for “the tender regulations” substitute “offshore transmission tender regulations”.
- (4) After subsection (4) insert—
- “(4A) In relation to a transmission system other than an offshore transmission system, the third condition is that—
- (a) either—
    - (i) a tender exercise for the granting of a relevant licence in respect of the system has been or is being held, or
    - (ii) a delivery body has determined to hold a tender exercise for the granting of a relevant licence in respect of the system, and
  - (b) the system, or anything forming part of it, has not been transferred to the successful bidder.”
- (5) In subsection (8)—

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- (a) in the definition of “developer”, for the words from “section 6D(2)(a)” to the end substitute “section 6CB(3)(a) or (b) (person who makes the connection request, including any person who is to be so treated by virtue of section 6CC(2))”;
- (b) for the definitions of “offshore transmission” and “offshore transmission licence” substitute—
  - ““offshore transmission” means the transmission within an area of offshore waters of electricity generated by a generating station in such an area;
  - “offshore transmission licence” means a transmission licence authorising anything that forms part of a transmission system to be used for purposes connected with offshore transmission;
  - “offshore transmission tender regulations” means tender regulations that provide for the determination on a competitive basis of the person to whom an offshore transmission licence is to be granted;”;
- (c) for the definitions of “successful bidder” and “tender exercise” substitute—
  - ““tender exercise” has the meaning given by section 6CD(3);”;
- (d) in the definition of “relevant generating station”, for “an offshore” substitute “a”;
- (e) for the definition of “the tender regulations” substitute—
  - ““tender regulations” has the meaning given by section 6C(1).”

(6) In the heading omit “Offshore”.

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**Commencement Information**

**I5** Sch. 15 para. 5 in force at Royal Assent, see s. 334(2)(i)

6 (1) Section 6G (meaning of “commissioning period”) is amended as follows.

(2) In subsection (1), for “an offshore” substitute “a”.

(3) Omit subsections (3) to (5).

(4) For subsection (6) substitute—

“(6) In this section—

“co-ordination licence” means a transmission licence which authorises a person to co-ordinate and direct the flow of electricity onto and over a transmission system by means of which the transmission of electricity takes place and the whole or part of which is at a place in Great Britain, in the territorial sea adjacent to Great Britain or in a Renewable Energy Zone;

“relevant co-ordination licence holder” means the holder of a co-ordination licence to whom a person has applied (in accordance with any provision made by that licence) for an offer of connection to and use of a transmission system for the purposes of which the tender exercise is held.”

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**Commencement Information**

**I6** Sch. 15 para. 6 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 7 (1) Section 6H (modification of codes or agreements) is amended as follows.
- (2) In subsection (1), for “a transmission licence or a distribution licence” substitute “a relevant licence”.
- (3) For subsection (2) substitute—
- “(2) The Authority may make a modification under subsection (1) only if it considers it necessary or desirable for the purpose of—
- (a) implementing, or facilitating the implementation of, a determination made in accordance with regulations under section 6C, or
  - (b) implementing or facilitating the operation of section 6F or 6G.”
- (4) For subsection (4) substitute—
- “(4) Before making a modification under subsection (1) the Authority must—
- (a) consult such persons as the Authority considers appropriate, and
  - (b) publish a notice—
    - (i) stating that it proposes to make the modification and its reasons for proposing to make it,
    - (ii) setting out the proposed modification and its effect, and
    - (iii) specifying the time within which representations may be made (which must not be less than the period of 28 days beginning with the day on which the notice is published).”
- (5) In subsection (5), for “the Energy Act 2013” substitute “the Energy Act 2023”.
- (6) In subsection (7), after “subsection” insert “(4) or”.
- (7) Omit subsection (8).
- (8) In the heading, after “Sections” insert “6C”.

**Commencement Information**

**I7** Sch. 15 para. 7 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 8 In section 11A (modification of conditions of licences), after subsection (9) insert—
- “(9A) This section does not apply to the modification of a licence in exercise of the power under section [6CC\(5\)\(a\)](#) (modification of licence to give effect to determination on a tender exercise).”

**Commencement Information**

**I8** Sch. 15 para. 8 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 9 In section 64(1) (interpretation etc of Part 1), at the appropriate places insert—
- ““contract counterparty” has the meaning given by section [6BA](#);”;

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- ““delivery body” has the meaning given by section 6BB;”;
- ““offshore transmission” and “offshore transmission licence” have the meaning given by section 6F(8);”;
- “offshore waters” means—
- (a) waters in or adjacent to Great Britain which are between the mean low water mark and the seaward limits of the territorial sea, and
  - (b) waters within an area designated under section 1(7) of the Continental Shelf Act 1964;”;

““relevant contract” and “relevant licence” have the meaning given by section 6BA;”;

““relevant electricity project” has the meaning given by section 6BA;”;

““relevant licence” has the meaning given by section 6BA;”.

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**Commencement Information**

**I9** Sch. 15 para. 9 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 10 Schedule 2A (property schemes) is amended in accordance with paragraphs 11 to 24.

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**Commencement Information**

**I10** Sch. 15 para. 10 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 11 For paragraph 1 substitute—

*“Scheme-making power*

- 1 (1) This paragraph applies where a tender exercise is held in relation to a relevant electricity project, a relevant licence or a relevant contract.
- (2) The Authority may, on an application under paragraph 3, make a scheme (“a property scheme”) providing for—
  - (a) the transfer to the successful bidder of, or
  - (b) the creation in favour of the successful bidder of rights in relation to,
 any property, rights or liabilities necessary or expedient for construction, commissioning or operational purposes.”

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**Commencement Information**

**I11** Sch. 15 para. 11 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 12 In paragraph 2, at the end insert—

“(5) A property scheme may not contain provision for the transfer of, or creation of rights in relation to, property, rights or liabilities that the Authority considers it appropriate for the successful bidder to acquire by other means.”

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**Commencement Information**

**I12** Sch. 15 para. 12 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

13 Omit paragraph 5.

**Commencement Information**

**I13** Sch. 15 para. 13 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

14 In paragraph 12, for “operational purposes” substitute “construction, commissioning or operational purposes” in each of the following places—

- (a) sub-paragraphs (1) to (3);
- (b) sub-paragraph (10);
- (c) sub-paragraph (11) (in both places).

**Commencement Information**

**I14** Sch. 15 para. 14 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

15 For paragraph 13 substitute—

“13 On an application for a property scheme, no scheme may be made until either a relevant licence has been granted or a relevant contract has been awarded to the successful bidder.”

**Commencement Information**

**I15** Sch. 15 para. 15 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

16 In paragraph 14—

- (a) in sub-paragraph (4), for “operational purposes” substitute “construction, commissioning or operational purposes”;
- (b) in sub-paragraph (6), after paragraph (a) insert—
  - “(aa) a delivery body,
  - (ab) a contract counterparty,”.

**Commencement Information**

**I16** Sch. 15 para. 16 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

17 In paragraph 15(2), for “operational purposes” substitute “construction, commissioning or operational purposes”.

**Commencement Information**

**I17** Sch. 15 para. 17 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

18 Omit paragraph 16(1)(d).

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**Commencement Information**

**I18** Sch. 15 para. 18 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 19 In paragraph 25(2), for “operational purposes” substitute “construction, commissioning or operational purposes”.

**Commencement Information**

**I19** Sch. 15 para. 19 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 20 In paragraph 30, for “operational purposes” substitute “construction, commissioning or operational purposes”.

**Commencement Information**

**I20** Sch. 15 para. 20 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 21 (1) Paragraph 35 is amended as follows.
- (2) In sub-paragraph (2), for “the offshore transmission licence” substitute “a relevant licence”.
- (3) After sub-paragraph (2) insert—
- “(2A) Where a tender exercise is held, as soon as a contract counterparty is satisfied that it will enter into a relevant contract with a particular person if certain matters are resolved to the counterparty’s satisfaction, it must publish a notice to that effect.”
- (4) In sub-paragraph (3), for “The notice” substitute “A notice under sub-paragraph (2) or (2A)”.
- (5) After sub-paragraph (4) insert—
- “(4A) A contract counterparty may withdraw a notice given by it under sub-paragraph (2A) by publishing a notice to that effect.”
- (6) In sub-paragraph (5), after “(2)” insert “or (2A)”.

**Commencement Information**

**I21** Sch. 15 para. 21 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 22 In paragraph 36—
- (a) omit sub-paragraph (1);
- (b) for sub-paragraph (2) substitute—
- “(2) Where as a result of a tender exercise the Authority determines to grant a relevant licence to a person, it must publish a notice to that effect.
- (2A) Where as a result of a tender exercise a person is awarded a relevant contract, the contract counterparty with which the

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*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 15. (See end of Document for details)*

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contract is to be entered into must publish a notice to that effect.”.

**Commencement Information**

**I22** Sch. 15 para. 22 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

23 After paragraph 36 insert—

*“Transmission owner and distribution network owner of last resort*

- 36A (1) Before directing the holder of a transmission licence to act as a transmission owner of last resort pursuant to the conditions of the licence, the Authority may publish a notice—
- (a) stating that it proposes to give the direction, and
  - (b) identifying the licence holder to whom it proposes to give the direction.
- (2) Where a notice is published under sub-paragraph (1), this Schedule has effect as if—
- (a) the licence holder is the preferred bidder in relation to a tender exercise, and
  - (b) the notice is one published under paragraph 35(2), identifying the licence holder as the preferred bidder.
- (3) Paragraph 35(4) applies in relation to a notice published under sub-paragraph (1) of this paragraph as it applies to a notice published under paragraph 35(2).
- (4) Where the Authority directs the holder of a transmission licence to act as a transmission owner of last resort pursuant to the conditions of the licence, this Schedule has effect as if—
- (a) the licence holder is the holder of a transmission licence granted as a result of a tender exercise in which the licence holder was the successful bidder, and
  - (b) a notice has been published under paragraph 36 identifying the licence holder as the successful bidder in relation to the tender exercise.
- 36B (1) Before directing the holder of a distribution licence to act as a distribution network owner of last resort pursuant to the conditions of the licence, the Authority may publish a notice—
- (a) stating that it proposes to give the direction, and
  - (b) identifying the licence holder to whom it proposes to give the direction.
- (2) Where a notice is published under sub-paragraph (1), this Schedule has effect as if—
- (a) the licence holder is the preferred bidder in relation to a tender exercise, and
  - (b) the notice is one published under paragraph 35(2), identifying the licence holder as the preferred bidder.

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- (3) Paragraph 35(4) applies in relation to a notice published under sub-paragraph (1) of this paragraph as it applies to a notice published under paragraph 35(2).
- (4) Where the Authority directs the holder of a distribution licence to act as a distribution network owner of last resort pursuant to the conditions of the licence, this Schedule has effect as if—
- (a) the licence holder is the holder of a distribution licence granted as a result of a tender exercise in which the licence holder was the successful bidder, and
  - (b) a notice has been published under paragraph 36 identifying the licence holder as the successful bidder in relation to the tender exercise.”

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**Commencement Information**

**I23** Sch. 15 para. 23 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 24 In paragraph 38(1)—
- (a) at the appropriate place insert—
    - ““construction, commissioning or operational purposes” means the purposes of performing any functions which the successful bidder has, or may in future have under or by virtue of—
    - (a) a relevant licence which has been, or is to be, granted as a result of the tender exercise,
    - (b) a relevant contract which has been, or is to be, awarded as a result of the tender exercise, or
    - (c) any enactment, in the successful bidder’s capacity as holder of the relevant licence or party to the relevant contract;”;
  - (b) omit the definitions of “co-ordination licence” and “relevant place”;
  - (c) omit the definition of “operational purposes”;
  - (d) for the definition of “successful bidder” substitute—
    - ““successful bidder”, in relation to a tender exercise, has the meaning given by section [6CD\(6\)](#);”;
  - (e) for the definition of “tender exercise” substitute—
    - ““tender exercise” has the meaning given by section [6CD\(3\)](#);”.

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**Commencement Information**

**I24** Sch. 15 para. 24 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 25 (1) In Schedule 4 (powers of licence holders), paragraph 6 is amended as follows.
- (2) In sub-paragraph (1)—
    - (a) in paragraph (a), after “licence holder” insert “to obtain the right”;
    - (b) omit “for the licence holder”.
  - (3) After sub-paragraph (7) insert—



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*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 15. (See end of Document for details)*

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“(7A) A necessary wayleave granted to a licence holder under this paragraph may be transferred to another licence holder.”

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**Commencement Information**

**I25** Sch. 15 para. 25 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

**PART 2**

OTHER AMENDMENTS

*Utilities Act 2000*

26 (1) Section 105 of the Utilities Act 2000 (general restrictions on disclosure of information) is amended as follows.

(2) In subsection (3), after paragraph (ac) insert—

“(ad) it is made for the purpose of facilitating any functions of the Authority, a delivery body or a contract counterparty (within the meaning of Part 1 of the 1989 Act) under regulations under section 6C of that Act;”.

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**Commencement Information**

**I26** Sch. 15 para. 26 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Energy Act 2023, Schedule 15.