



CMC Modification – Amendment to Drafting Introduced Under CMC\_15\_22.  
Capacity Workshop 31

## Background

This modification seeks to make amendments to Section J.6. of the CMC – as introduced through modification CMC\_15\_22.

The proposed amendment would reflect scenarios which were overlooked during the drafting of CMC\_15\_22, but are consistent with the intended purpose of that modification.

Failing to address these scenarios will result in New Capacity in Northern Ireland remaining exposed to the risk of prolonged delay as a result of third-party challenges, and unable to avail of extensions under CMC\_15\_22. This is detrimental to Security of Supply and competitive downward pressure on prices. Additionally, this modification will ensure an even-playing field across the SEM.

Specifically, this modification extends the trigger for extension to apply to cases where a delay is incurred as a result of directions under Article 17 and Article 18 of the Planning (General Development Procedure) Order (Northern Ireland) 2015.

### **Article 17/18 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 (“the Planning Order”)**

Article 17 of the Planning Order states:

*“The Department may give directions to a council restricting the grant of planning permission by a council, either indefinitely or during such period as may be specified in the direction, in respect of any development or any class of development, as may so be specified”.*

Article 18 of the Planning Order states:

*“The Department may give directions requiring a council to give the Department and to such other persons as may be specified in the direction, such information as may be so specified with respect to applications for planning permission made to the council, including information as to the manner in which any such application has been dealt with”.*

Third Parties may request that the Department makes a Direction under either of these articles. Where a direction is made, projects awaiting planning approval can incur delays of several weeks to months.

### **Article 17/18 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 (“the Planning Order”)**

This Direction, if issued, requires the council responsible for granting permission to forward details of the planning application to the Department of Infrastructure. Following this, the Department of Infrastructure considers whether or not to call-in the application for a separate determination following the council’s decision.

The council responsible for the planning application may not issue a decision on the application until the Department has considered this matter.

This means that even where an application is complete and in good order, an Article 17/18 direction will likely result in a significant increase in processing time for the application. Because this direction is enforced before the council has made a decision, it is not covered under the appeals/challenges included under CMC\_15\_22.

### **Impact of Modification**

This modification will enable Participants to receive extensions similar to those available under CMC\_15\_22. Extension applications made under this modification will follow the same process as in place under CMC\_15\_22.

EPUKI considers this modification to have a low-impact on the Capacity Auction and consistent with the intent of the original modification CMC\_15\_22.

EPUKI is proposing the start date for the extension period to be the date of the meeting of the planning authority, at which a decision would have been made on the planning application in the absence of an Article 17/18 direction.