



Energy Act 2013

2013 CHAPTER 32

PART 2

ELECTRICITY MARKET REFORM

CHAPTER 3

CAPACITY MARKET

28 Capacity agreements

- (1) Electricity capacity regulations may make provision about capacity agreements.
- (2) Subject to any further provision made under this Chapter, a capacity agreement is an instrument by virtue of which—
 - (a) the holder of the capacity agreement (“the capacity provider”) may be required to provide capacity;
 - (b) all electricity suppliers may be required to make payments (“capacity payments”) for the benefit of capacity providers;
 - (c) capacity providers may be required to make payments (“capacity incentives”) for the benefit of all electricity suppliers.
- (3) Provision included in electricity capacity regulations for the purposes of subsection (2) may make provision about the meaning of “electricity supplier”.
- (4) Provision included in electricity capacity regulations by virtue of subsection (1) may include provision about—
 - (a) the terms of a capacity agreement;
 - (b) the circumstances in which, and the process by which, a capacity agreement may or must be issued;
 - (c) the persons who may be capacity providers;
 - (d) the circumstances in which capacity must be available;
 - (e) the duration of a capacity agreement;

Changes to legislation: Energy Act 2013, Section 28 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (f) the means by which capacity payments or capacity incentives are to be calculated;
 - (g) a person or body who is to administer the settlement of capacity payments or capacity incentives (“a settlement body”);
 - (h) the enforcement of the terms of a capacity agreement;
 - (i) the resolution of disputes relating to a capacity agreement;
 - (j) the circumstances in which a capacity agreement may be terminated or varied;
 - (k) the circumstances in which a capacity agreement may be assigned or traded.
- (5) Provision falling within subsection (4) includes provision—
- (a) conferring on the national system operator the function of issuing capacity agreements;
 - (b) relating to the outcome of a capacity auction (see section 29);
 - (c) about any conditions that must be satisfied by or in relation to a person before that person may enter a capacity auction or become a capacity provider;
 - (d) about any matters in relation to which a person must satisfy the national system operator before the person may enter a capacity auction or become a capacity provider.
- (6) Provision made by virtue of subsection (4)(f) and (g) may—
- (a) include provision for a settlement body to calculate or determine, in accordance with such criteria as may be provided for by or under the regulations, amounts which are owed as capacity payments or capacity incentives;
 - (b) provide for anything which is to be calculated or determined under the regulations to be calculated or determined by such persons, in accordance with such procedure and by reference to such matters and to the opinion of such persons, as may be specified in the regulations.
- (7) Provision made by virtue of this section may include provision requiring a person to consent to the inspection of plant or premises, either before or after that person becomes a capacity provider.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 68(4) inserted by [2023 c. 52 s. 302\(4\)](#)