STATUTORY INSTRUMENTS

2025 No. 183

ELECTRICITY

The Electricity Capacity (Amendment) Regulations 2025

Made - - - -	*13th February 2025*
Coming into force - -	*14th February 2025*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 27(1) and (5), 28(1), (4)(e) and (f), 29(1), (2)(a) and (e), 36(1), (3) and (4)(d), and 40(1) of the Energy Act 2013 ("the Act")(**1**).

The Secretary of State has before making these Regulations—

(a) consulted the persons listed in section 40(2)(a) and (b) of the Act and such other persons as the Secretary of State considered it appropriate to consult;

(b) in accordance with section 5(1)(d) had regard to the matters in section 5(2) of the Act.

In accordance with section 40(5) of the Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Electricity Capacity (Amendment) Regulations 2025.

(2) These Regulations come into force on the day after the day on which they are made.

(3) These Regulations extend to England and Wales and Scotland.

Amendment of the Electricity Capacity Regulations 2014

2. The Electricity Capacity Regulations 2014(**2**) are amended in accordance with regulations 3 to 10.

Amendment to regulation 2 (interpretation)

3. In regulation 2(1)—

(a) in the definition of "a CFD", after "the Act", insert "or an investment contract under Schedule 2 to the Act";

(**1**) 2013 c. 32.
(**2**) S.I. 2014/204; provisions amended by these Regulations are amended by S.I. 2015.875, 2016/742, 2020/697.

(b) after the definition of "interconnector CMU", insert—

""low emissions determination" has the meaning given in the Rules;".

Amendment to regulation 11 (meaning of auction parameters)

4. In regulation 11—

(a) in paragraph (1)(e), after "15 year minimum £/kW threshold" insert ", 9 year minimum £/kW threshold";

(b) in paragraph (3)—

(i) for "In paragraph (1)", substitute "In this regulation";

(ii) for the definitions of "15 year minimum £/kW threshold" and "3 year minimum £/kW threshold" substitute—

""3 year minimum £/kW threshold" means the minimum amount of capital expenditure per kilowatt of de-rated capacity which a bidder must commit to spending on a generating CMU or an unproven demand side response CMU that is not a three year zero capex threshold CMU to be eligible to bid for a capacity obligation for a period of 2 or 3 delivery years;

"9 year minimum £/kW threshold" means the minimum amount of capital expenditure per kilowatt of de-rated capacity which a bidder must commit to spending on a declared low carbon CMU that is a new build CMU, a refurbishing CMU or an unproven demand side response CMU to be eligible to bid for a capacity obligation for a period of more than 3 and up to 9 delivery years;

"15 year minimum £/kW threshold" means the minimum amount of capital expenditure per kilowatt of de-rated capacity which a bidder must commit to spending—

(a) on a declared low carbon CMU that is a generating CMU or an unproven demand side response CMU to be eligible to bid for a capacity obligation for a period of more than 9 and up to 15 delivery years; or

(b) on any other generating CMU or unproven demand side response CMU to be eligible to bid for a capacity obligation for a period of more than 3 and up to 15 delivery years;";

(iii) after the definition of "auction target capacity", insert—

"; and

"declared low carbon CMU", "new build CMU", "refurbishing CMU", and "three year zero capex threshold CMU" have the meaning given in the Rules.".

Amendment to regulation 16 (excluded capacity, low carbon support scheme CMUs)

5. For regulation 16(2), substitute—

"(2) The Delivery Body must not prequalify CMU i if—

(a) the CFD counterparty has made an offer of a CFD in respect of the generating station that comprises or includes CMU i—

(i) under section 10(1) of the Energy Act 2013 (direction to offer to contract), and the CFD counterparty and an eligible generator have entered into that CFD; or

(ii) under regulation 10(1) of the Contracts for Difference (Standard Terms) Regulations 2014 (offer to contract) and an eligible generator has entered into that CFD; and

(b) that CFD has not expired or been terminated.

(2A) For the purposes of paragraph (2), a reference to an eligible generator entering into a CFD has the meaning given in regulation 10(3) of the Contracts for Difference (Standard Terms) Regulations 2014 (offer to contract)(**3**).".

Amendment to regulation 30 (capacity agreements)

6. In regulation 30(6), for "a capacity agreement", substitute "once a capacity agreement takes effect in accordance with the Rules, it".

Amendment to regulation 39 (determination of adjusted load-following capacity obligation, net output and adjusted net output)

7. In regulation 39(4), for "20", substitute "34".

Amendment to regulation 50 (reducing capacity payments: failure to demonstrate satisfactory performance)

8. In regulation 50(6)—

(a) before the definition of relevant month, insert—

""extended performance" has the meaning given in the Rules;";

(b) in the definition of "satisfactory performance requirement", after "demonstrate satisfactory performance days", insert "or extend performance during a satisfactory performance day".

Amendment to regulation 68 (delivery body reviewable decisions)

9. In the table in regulation 68(2), insert a row at the end, as follows—

"A low emissions determination	The capacity provider to whom the notice of the determination was given".

Amendment to regulation 70 (appeals to the Authority)

10. In regulation 70(4)(c), at the end, omit "and" and insert—

"(ca) in the case of an appeal relating to a low emissions determination, a copy of—

(i) the notice setting out the determination; and

(ii) any notice that the Rules required to be given before the low emissions determination was made; and".

(**3**) The Contracts for Difference (Standard Terms) Regulations 2014, S.I. 2014/2012; there are amending instruments but none is relevant.

Hunt of Kings Heath
Minister of State for Energy Security and Net Zero
13th February 2025 Department for Energy Security and Net Zero

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument amends the Electricity Capacity Regulations 2014 (S.I. 2014/2043) ("the 2014 Regulations").

The 2014 Regulations make provision for the purpose of meeting consumers' demand for electricity in Great Britain by establishing a Capacity Market ("the scheme") under which those who make capacity available ("capacity providers") can obtain capacity agreements which give them rights to receive capacity payments, and which also impose obligations on capacity providers to use their "capacity market units" ("CMUs") to provide capacity when required to do so. Following a prequalification process during which applications must be made to the scheme's delivery body (National Energy System Operator), capacity agreements are awarded in auctions. The scheme operates on an annual cycle: prequalification typically takes place in the third quarter of each calendar year; the auctions in the first quarter of the next calendar year; and agreements run for one or more "delivery years", each of which runs from 1st October to the following 30th September. Further detailed provision is made by the Capacity Market Rules 2014 ("the Rules"). An informal consolidated version of the Rules can be found at https://www.gov.uk/government/publications/capacity-market-rules. Copies are available from the Department for Energy Security and Net Zero, 3-8 Whitehall Place, London, SW1A 2EG.

Capacity agreements generally have a duration of one, three or 15 delivery years. Eligibility for agreements of more than one year depends on a CMU's characteristics and whether the amount of money to be spent on it by the capacity provider meets a specified threshold. For the prequalification process that is expected to take place in 2025, ahead of the auctions to take place in the first quarter of 2026, it is proposed to introduce the possibility of nine year agreements for certain CMUs that meet the requirements to be a "declared low carbon CMU" and a new capital expenditure threshold, that would be set at a level between the thresholds for three and 15 year agreements. At the same time, certain declared low carbon CMUs will be permitted to acquire 3 year agreements without incurring capital expenditure up to the usual capital expenditure threshold for an agreement of that duration. Regulation 4 amends regulation 11 of the 2014 Regulations to provide for these changes.

Regulations 3(a) and 5 clarify the existing intention of the provision prohibiting generating stations that have entered into contracts for difference offered under or by virtue of the Energy Act 2013 from being prequalified to bid for capacity agreements. Regulation 7 corrects a detail of timing in the provisions of the 2014 Regulations relating to penalties. Regulation 8 clarifies the operation of the extended performance testing regime, in relation to which changes to the Rules are to come into force at the same time as this instrument. Regulations 3(b), 6, 9 and 10 are similarly consequential on other changes to the Rules that are to come into force at the same time.

The amendments made by this instrument were the subject of consultations in 2023(**4**). In order to implement the policies consulted on, amendments to the Rules are also required. Amending Rules will be made so as to come into force either simultaneously with this instrument or on specified dates in 2025.

An impact assessment has not been prepared for this instrument. The scheme was subject to a full impact assessment when it was first introduced. This instrument is intended to improve the operation

(**4**) See Capacity Market 2023: strengthening security of supply and alignment with net zero (Phase 1), at https://www.gov.uk/government/consultations/capacity-market-consultation-strengthening-security-of-supply-and-alignment-with-net-zero, and Capacity Market 2023: Phase 2 proposals and 10 year review, at https://www.gov.uk/government/consultations/capacity-market-2023-phase-2-proposals-and-10-year-review.

of existing arrangements for the delivery of the scheme. It introduces changes that will only have minor impacts on business, and no impact is foreseen on the voluntary or public sector.