



Energy Act 2013

2013 CHAPTER 32

PART 2

ELECTRICITY MARKET REFORM

CHAPTER 3

CAPACITY MARKET

34 Power to make capacity market rules

- (1) The Secretary of State may make capacity market rules which, subject to subsection (2), may contain any provision that may be made by electricity capacity regulations.
- (2) Capacity market rules may not make—
 - (a) provision falling within—
 - (i) section 27(3);
 - (ii) section 28(3);
 - (iii) paragraphs (f) or (g) of section 28(4);
 - (iv) section 28(5)(a);
 - (v) paragraphs (b), (c), (d) or (f) of section 29(2);
 - (vi) section 30;
 - (vii) section 35;
 - (b) provision for the Secretary of State to require a person to provide information or advice to the Secretary of State.
- (3) Electricity capacity regulations may make provision to confer on the Authority, to such extent and subject to such conditions as may be specified in the regulations, the power to make capacity market rules.

Changes to legislation: Energy Act 2013, Section 34 is up to date with all changes known to be in force on or before 07 May 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

- (4) The conditions may in particular include conditions about consultation; and provision made by virtue of subsection (3) must provide that, before any exercise of the power to make capacity market rules, the Authority must consult—
 - (a) any person who is a holder of a licence to supply electricity under section 6(1)(d) of EA 1989;
 - (b) any person who is a capacity provider.
- (5) Provision made by virtue of subsection (3) must secure that capacity market rules made by the Authority may not confer functions on the Authority except with the consent of the Secretary of State.
- (6) Provision made by virtue of subsection (3) may include provision—
 - (a) for the reference to the Secretary of State in section 33(2)(c) to have effect, for the purposes of capacity market rules and to such extent as may be specified in the regulations, as a reference to the Authority;
 - (b) for section 33(3) to apply in relation to a disclosure required by virtue of the capacity market rules.

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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\(4\)](#)