



# 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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.