
STATUTORY INSTRUMENTS

2014 No. 2043

The Electricity Capacity Regulations 2014

PART 13

Miscellaneous

Restricted liability in damages

85.—(1) Paragraph (2) applies to—

- (a) the national system operator;
- (b) any director of the national system operator; and
- (c) any employee, officer or agent of the national system operator.

(2) Subject to paragraph (3), a person to whom this paragraph applies is not liable in damages for anything done or omitted to be done in the exercise or purported exercise of the national system operator's functions under—

- (a) these Regulations; or
- (b) capacity market rules.

(3) The exclusion of liability in paragraph (2) does not—

- (a) apply where the act or omission occurs in bad faith, including where the act or omission—
 - (i) constitutes a tort which involved a wilful act or omission calculated to cause harm or loss to another person; or
 - (ii) is fraudulent;
- (b) prevent an award of damages in respect of an act or omission which is—
 - (i) unlawful by virtue of section 6(1) of the Human Rights Act 1998^{M1};
 - (ii) a breach of a duty owed by virtue of section 27(4) of EA 1989;
 - (iii) a criminal offence;
 - (iv) an infringement of a person's intellectual property rights;
 - (v) a breach of confidentiality, whether statutory or at common law; or
 - (vi) a breach of contract.

Marginal Citations

M1 1998 c.42.

Documents

86. Schedule 2 (documents) has effect.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Electricity Capacity Regulations 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

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

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

- Sch. 1 para. 2(5) words substituted by [S.I. 2024/434 reg. 12\(a\)](#)
- reg. 3(3) words inserted by [S.I. 2024/434 reg. 8](#)
- reg. 4(b) word substituted by [S.I. 2024/434 reg. 9\(c\)](#)
- reg. 4(2)(aa) inserted by [S.I. 2024/434 reg. 9\(b\)\(iii\)](#)
- reg. 19(aa) inserted by [S.I. 2024/434 reg. 11\(b\)](#)