
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make various amendments to the Electricity Capacity Regulations 2014 (S.I. 2014/2043) (“the Principal Regulations”) and the Electricity Capacity (No. 1) Regulations 2019 (S.I. 2019/862) (“the 2019 Regulations”).

The Principal Regulations make provision for the purpose of meeting consumers’ demands for electricity in Great Britain by establishing a Capacity Market (“the scheme”) under which those who make capacity available (“capacity providers”) can be awarded capacity agreements, which give them rights to receive capacity payments and impose obligations on them. The 2019 Regulations modify the application of the Principal Regulations and the Electricity Capacity (Supplier Payment etc.) Regulations 2014 (S.I. 2014/3354) to adjust the operation of the scheme following the annulment of the scheme’s State aid approval by a judgment of the General Court of Justice of the European Union (Case T-793/14).

Regulation 2 makes amendments to the Principal Regulations. These amendments: allow a one-off three-year ahead capacity auction for the delivery year commencing on 1st October 2022 (“the T-3 auction”) to be run; modify the application of credit cover requirements for that auction and the four-year ahead capacity auction for the delivery year commencing on 1st October 2023 (“the subsequent T-4 auction”) to avoid unnecessary duplication of credit cover requirements where both auctions are held in the same auction window; expands the circumstances in which capacity payments must be reduced to offset payments under other schemes; and modify the calculations used to determine a capacity provider’s obligation to repay capacity payments following a termination event.

Regulation 3 makes amendments to the 2019 Regulations. These amendments: extend the State aid related modifications to credit cover requirements applicable to capacity agreements which existed on 15th November 2018 (“existing agreements”) with some minor changes to the T-3 auction, the subsequent T-4 auction, and the one year ahead auction for the delivery year commencing on 1st October 2020 (collectively, the “subsequent capacity auctions”); provide for additional modifications to the Principal Regulations to avoid unnecessary duplication of credit cover requirements where credit cover for existing agreements is required to be provided following State aid approval after credit cover for the subsequent capacity auctions is provided; and correct three minor drafting errors in the 2019 Regulations.