
DRAFT STATUTORY INSTRUMENTS

2014 No.

The Electricity Market Reform (General) Regulations 2014

PART 4

Liability of the national system operator

Restricted liability in damages

15.—(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;
- (b) the Allocation Regulations; or
- (c) any allocation framework made by the Secretary of State pursuant to section 13(2) of the Act.

(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⁽¹⁾;
 - (ii) a breach of a duty owed by virtue of section 27(4) of the Electricity Act 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.