

ENERGY ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Electricity Market Reform

Chapter 2: Contracts for difference

Section 7: Designation of a CFD counterparty

89. This sets out the power allowing the Secretary of State to designate a company or a public authority, with the consent of that person, to act as the counterparty for the CFD. The counterparty will enter into and manage CFDs with eligible generators, and will act as the interface between generators and suppliers.
90. *Subsection (3)* allows the counterparty to be a registered company or a public authority. Whilst it is expected that the counterparty will be owned by Government, any designated counterparty would have access to the same rights (such as to the Supplier obligation) and be bound by the same duties under the legislation, regardless of whether it was a company and / or public authority, or whom it was owned by.
91. Under *subsection (6)* the designation of a company as the CFD counterparty can be revoked by the Secretary of State. Designation will also cease if the CFD counterparty elects to withdraw its consent and gives 3 months prior notice to the Secretary of State of that withdrawal. *Subsections (7) to (10)* deal with the continuity of CFD counterparties. If the designation of a CFD counterparty were to lapse the Secretary of State must as soon as reasonably practicable designate another counterparty and make a transfer scheme under *Schedule 1* transferring all CFDs to that new counterparty. This is designed to ensure that there is always a CFD counterparty and that where a CFD counterparty ceases to be designated the contracts are transferred to a new CFD counterparty.
92. *Schedule 1* sets out the process by which the property, rights and liabilities of the CFD counterparty may be transferred from one counterparty to another, should this prove necessary either because a counterparty no longer wishes to be designated, or because it has become inappropriate for a counterparty to be designated in this role. A scheme may provide for compensation for any property that is required to be transferred where this is appropriate.