



# Energy Act 2013

## 2013 CHAPTER 32

### PART 6

#### CONSUMER PROTECTION AND MISCELLANEOUS

### CHAPTER 2

#### MISCELLANEOUS

#### *Offshore transmission*

#### **147 Offshore transmission systems**

- (1) EA 1989 is amended as follows.
- (2) In section 4 (prohibition on unlicensed supply), after subsection (3A) insert—

“(3AA) Subsection (3A) is subject to section 6F (offshore transmission during commissioning period).”
- (3) After section 6E insert—

#### **“6F Offshore transmission during commissioning period**

- (1) For the purposes of this Part a person is not to be regarded as participating in the transmission of electricity if the following four conditions are met.
- (2) The first condition is that the transmission takes place over an offshore transmission system (“the system”) or anything forming part of it.
- (3) The second condition is that the transmission takes place during a commissioning period (see section 6G).
- (4) The third condition is that—

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- (a) a request has been made to the Authority in accordance with the tender regulations for a tender exercise to be held for the granting of an offshore transmission licence in respect of the system,
  - (b) the Authority has determined in accordance with those regulations that the request relates to a qualifying project, and
  - (c) the system, or anything forming part of it, has not been transferred as a result of the exercise to the successful bidder.
- (5) The fourth condition is that—
- (a) the person who is the developer in relation to the tender exercise is also the operator of a relevant generating station, and
  - (b) the construction or installation of the system is being or has been carried out by or on behalf of, or by or on behalf of a combination of, any of the following—
    - (i) the person mentioned in paragraph (a);
    - (ii) a body corporate associated with that person at any time during the period of construction or installation;
    - (iii) a previous developer;
    - (iv) a body corporate associated with a previous developer at any time during the period of construction or installation.
- (6) For the purposes of subsection (1), it does not matter whether or not the person mentioned in that subsection is the developer in relation to the tender exercise.
- (7) For the purposes of subsection (5)(b)(iii) and (iv), a person is a “previous developer” in relation to the system if—
- (a) the person does not fall within subsection (5)(a), but
  - (b) at any time during the period of construction or installation, the person was the developer in relation to the tender exercise.
- (8) In this section—
- “associated”, in relation to a body corporate, is to be construed in accordance with paragraph 37 of Schedule 2A;
  - “developer”, in relation to a tender exercise, means any person within section 6D(2)(a) (person who makes the connection request, including any person who is to be so treated by virtue of section 6D(4));
  - “offshore transmission” has the meaning given by section 6C(6);
  - “offshore transmission licence” has the meaning given by section 6C(5);
  - “offshore transmission system” means a transmission system used for purposes connected with offshore transmission;
  - “operator”, in relation to a generating station, means the person who is authorised to generate electricity from that station—
    - (a) by a generation licence granted under section 6(1)(a), or
    - (b) in accordance with an exemption granted under section 5(1);
  - “qualifying project” is to be construed in accordance with the tender regulations;
  - “successful bidder” and “tender exercise” have the same meanings as in section 6D;

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“relevant generating station”, in relation to an offshore transmission system, means a generating station that generates electricity transmitted over the system;

“the tender regulations” means regulations made under section 6C.

### **6G Section 6F: meaning of “commissioning period”**

- (1) For the purposes of section 6F(3), transmission over an offshore transmission system (or anything forming part of it) takes place during a “commissioning period” if it takes place at any time—
  - (a) before a completion notice is given in respect of the system, or
  - (b) during the period of 18 months beginning with the day on which such a notice is given.
- (2) A “completion notice”, in relation to a transmission system, is a notice which—
  - (a) is given to the Authority by the relevant co-ordination licence holder in accordance with the co-ordination licence, and
  - (b) states that it would be possible to carry on an activity to which section 4(1)(b) applies by making available for use that system.
- (3) The Secretary of State may by order amend subsection (1) so as to specify a period of 12 months in place of the period of 18 months.
- (4) An order under subsection (3) may be made only so as to come into force during the period—
  - (a) beginning 2 years after the day on which section 147 of the Energy Act 2013 comes into force, and
  - (b) ending 5 years after that day.
- (5) An amendment made by an order under subsection (3) does not apply in relation to any transmission of electricity over a transmission system if—
  - (a) but for the making of the order, the person participating in the transmission would, by virtue of section 6F, have been regarded as not participating in the transmission, and
  - (b) the determination mentioned in subsection (4)(b) of that section in relation to the system was made on or before the day on which the order is made.
- (6) In this section—

“co-ordination licence” has the same meaning as in Schedule 2A (see paragraph 38(1) of that Schedule);

“relevant co-ordination licence-holder” has the meaning given by paragraph 13(4) of Schedule 2A.

### **6H Sections 6F and 6G: modification of codes or agreements**

- (1) The Authority may—
  - (a) modify a code maintained in accordance with the conditions of a transmission licence or a distribution licence;
  - (b) modify an agreement that gives effect to a code so maintained.

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- (2) The Authority may make a modification under subsection (1) only if it considers it necessary or desirable for the purpose of implementing or facilitating the operation of section 6F or 6G.
  - (3) The power to make modifications under subsection (1) includes a power to make incidental, supplemental, consequential or transitional modifications.
  - (4) The Authority must consult such persons as the Authority considers appropriate before making a modification under subsection (1).
  - (5) Subsection (4) may be satisfied by consultation before, as well as consultation after, the passing of the Energy Act 2013.
  - (6) As soon as reasonably practicable after making a modification under subsection (1), the Authority must publish a notice stating its reasons for making it.
  - (7) A notice under subsection (6) is to be published in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by it.
  - (8) A modification under subsection (1) may not be made after the end of the period of 7 years beginning with the day on which section 147 of the Energy Act 2013 comes into force.”
- (4) In section 64 (interpretation of Part 1), in subsection (1B) at the end insert “and section 6F”.