

## STATUTORY INSTRUMENTS

# 2014 No. 2043

## The Electricity Capacity Regulations 2014

### PART 14

#### Transitory provisions and repeal

##### Transitory provisions: the first T-4 auction

**87.**—(1) If the Secretary of State determines under regulation 10(1)(a) that a capacity auction is to be held for the delivery year starting on 1st October 2018—

- (a) the Secretary of State must at the same time determine the auction window for that capacity auction, which must end not later than 31st July 2015;
- (b) in relation to the determination of auction parameters for that capacity auction, paragraphs (5)(a) and (6) of regulation 12 do not apply; and
- (c) references in these Regulations to a T-4 auction are to be treated as including that capacity auction.

(2) In paragraphs (3)<sup>F1</sup>... and (7), “the first T-4 auction” means the capacity auction referred to in paragraph (1).

(3) In relation to the first T-4 auction, the Secretary of State may direct the Delivery Body for the purposes of capacity market rules about prequalification—

- (a) to treat a person who applies to prequalify for that capacity auction, and who is not a permitted person within the meaning given in the Rules, as if that person were a permitted person;
- (b) to treat a CMU in respect of which a prequalification application is made, and which is not within a generating technology class specified in capacity market rules, as if that CMU were within such generating technology class as the Secretary of State directs for the purpose of determining its de-rated capacity.

(4) The Delivery Body must comply with a direction under paragraph (3).

<sup>F2</sup>(5) .....

<sup>F3</sup>(6) .....

(7) Regulation 69(5) does not apply in relation to the reconsideration of a prequalification decision for the first T-4 auction.

<sup>F4</sup>(8) .....

##### Textual Amendments

**F1** Word in [reg. 87\(2\)](#) omitted (2.11.2017) by virtue of [The Electricity Capacity \(Amendment\) Regulations 2017 \(S.I. 2017/1053\)](#), [reg. 1\(2\)](#), [Sch. 1 para. 9\(a\)](#)

**F2** [Reg. 87\(5\)](#) omitted (2.11.2017) by virtue of [The Electricity Capacity \(Amendment\) Regulations 2017 \(S.I. 2017/1053\)](#), [reg. 1\(2\)](#), [Sch. 1 para. 9\(b\)](#)

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- F3** Reg. 87(6) omitted (2.11.2017) by virtue of [The Electricity Capacity \(Amendment\) Regulations 2017 \(S.I. 2017/1053\)](#), reg. 1(2), [Sch. 1 para. 9\(b\)](#)
- F4** Reg. 87(8) omitted (2.11.2017) by virtue of [The Electricity Capacity \(Amendment\) Regulations 2017 \(S.I. 2017/1053\)](#), reg. 1(2), [Sch. 1 para. 9\(b\)](#)

#### **[<sup>F5</sup>Transitory provisions: the second T-4 auction**

**87A.**—(1) Paragraph (2) applies if the Secretary of State determines under regulation 10(1)(b) that a capacity auction is to be held in the auction window starting on 1st September 2015 (“the second T-4 auction”).

[<sup>F6</sup>(2) Where this paragraph applies, paragraph (7) of regulation 87 has effect as if the reference to the “first T-4 auction” were a reference to the second T-4 auction.]]

#### **Textual Amendments**

- F5** Reg. 87A inserted (24.3.2015) by [The Electricity Capacity \(Amendment\) Regulations 2015 \(S.I. 2015/875\)](#), reg. 1(2), [Sch. 1 para. 20](#)
- F6** Reg. 87A(2) substituted (2.11.2017) by [The Electricity Capacity \(Amendment\) Regulations 2017 \(S.I. 2017/1053\)](#), reg. 1(2), [Sch. 1 para. 10](#)

#### **[<sup>F7</sup>Transitory provisions: the third T-4 auction and supplementary auction**

**87B.**—(1) If the Secretary of State determines that a third T-4 auction is to be held, paragraph (7) of regulation 87 has effect as if the reference to the “first T-4 auction” were a reference to the third T-4 auction.

(2) If the Secretary of State determines that a supplementary auction is to be held, paragraph (7) of regulation 87 has effect as if the reference to the “first T-4 auction” were a reference to the supplementary auction.]

#### **Textual Amendments**

- F7** Reg. 87B inserted (14.7.2016) by [The Electricity Capacity \(Amendment\) Regulations 2016 \(S.I. 2016/742\)](#), reg. 1(2), [Sch. 1 para. 60](#)

#### **[<sup>F8</sup>Transitory provisions: the T-3 auction**

**87C.**—(1) This regulation applies if the Secretary of State determines under regulation 10(1)(bb) that the T-3 auction is to be held.

(2) Where this regulation applies—

- (a) references to a T-4 auction in regulations 10(4), 12(2), 31(2)(e), 34(1), 59(2)(a), 60(2)(a) and Schedule 1 are treated as including the T-3 auction;
- (b) regulation 13 (adjustment of auction parameters following prequalification) applies in relation to the T-3 auction and the subsequent T-4 auction as if after paragraph (2) there were inserted—

“(3) After the Secretary of State receives a notification from the Delivery Body under regulation 25(1) in respect of the T-3 auction, the Secretary of State may decide to adjust the demand curve and target capacity for the subsequent T-4 auction (if the Secretary of State has determined this T-4 auction is to be held).

- (4) The Secretary of State must make any decision under paragraph (3), and give notice of any adjustments to the Delivery Body, no later than the last working day before the date on which the Delivery Body is required to publish the final version of the auction guidelines for the subsequent T-4 auction under regulation 21(3).”;
- (c) regulation 59 (requirement to provide applicant credit cover) applies—
- <sup>F9</sup>(i) . . . . .
- (ii) in relation to credit cover provided in respect of the T-3 auction and the subsequent T-4 auction as if for paragraphs (2A) and (2B) there were substituted—
- “(2A) Paragraph (2B) applies where an applicant for the T-3 auction and the subsequent T-4 auction is required to provide applicant credit cover in respect of the same CMU (“CMU i”) for both auctions in accordance with this regulation.
- (2B) Where this paragraph applies—
- (a) the applicant may satisfy their obligation to provide credit cover in respect of CMU i for both auctions by providing credit cover of an amount equal to the greater of the amounts determined under paragraph (2)(a) in respect of—
- (i) the T-3 auction; and
- (ii) the subsequent T-4 auction;
- (b) credit cover provided in accordance with sub-paragraph (a) may be drawn down under regulation 61(1) in relation to a capacity agreement awarded in either of the auctions referred to in sub-paragraph (a); and
- (c) notwithstanding paragraph (1)(h) or (3) of regulation 60, any credit cover drawn down in relation to a capacity agreement awarded in either of the auctions referred to in sub-paragraph (a) must be replaced in accordance with the obligation under regulation 60(1) to maintain credit cover in respect of the other auction.”;
- (d) regulation 60 (credit obligation period) applies in respect of the T-3 auction and the subsequent T-4 auction as if—
- (i) before paragraph (1)(a) there were inserted—
- “(aa) where credit cover provided by A in respect of CMU i for an auction (“auction X”) also satisfies A’s obligation to provide credit cover in respect of CMU i for another auction because regulation 59(2B) applies and an event in sub-paragraph (b) to (h) has occurred in respect of the other auction.”;
- (ii) after paragraph (1) there were inserted—
- “(1A) Where paragraph (1)(aa) applies, A must thereafter maintain credit cover in respect of auction X in an amount equal to—
- (a) the amount calculated under regulation 59(2)(a) in respect of A’s application to prequalify for auction X in respect of CMU i; or
- (b) where paragraph (1)(a) applies, the amount calculated under paragraph (2) in respect of CMU i and auction X,
- until the earliest of the events in sub-paragraphs (b) to (h) of paragraph (1) has occurred in respect of auction X.”; and
- (iii) after paragraph (4) there were inserted—
- “(4C) Paragraphs (1) to (4) are subject to paragraph (4D).

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(4D) Where regulation 59(2B) applies, A is required to maintain credit cover in the amount equal to the greater of the amounts A is required to maintain in respect of CMU i under this regulation in relation to—

- (a) the T-3 auction; and
- (b) the subsequent T-4 auction,

until the applicant is no longer required to maintain credit cover in respect of CMU i in relation to either auction.”; and

(e) regulation 69(3) applies to requests for review of prequalification decisions for—

- (i) the T-1 auction for the delivery year commencing on 1st October 2020;
- (ii) the T-3 auction; and
- (iii) the subsequent T-4 auction,

as if for “15” there were substituted “20”.

(3) In this regulation “subsequent T-4 auction” means the T-4 auction for the delivery year commencing on 1st October 2023.]

#### Textual Amendments

**F8** Reg. 87C inserted (18.7.2019) by [The Electricity Capacity \(No. 2\) Regulations 2019 \(S.I. 2019/1139\)](#), regs. 1(2), **2(9)**

**F9** Reg. 87C(2)(c)(i) omitted (4.7.2020) by virtue of [The Electricity Capacity \(Amendment etc.\) \(Coronavirus\) Regulations 2020 \(S.I. 2020/697\)](#), reg. 1(2), **Sch. 1 para. 9**

#### Repeal

**88.** Section 47ZA of EA 1989 <sup>M1</sup> is repealed.

#### Commencement Information

**I1** Reg. 88 in force at 1.1.2015, see [reg. 1\(4\)](#)

#### Marginal Citations

**M1** 1989 c.29. Section 47ZA was inserted by section 79 of the [Energy Act 2011 \(c.16\)](#).

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**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\(b\)](#)