



# Energy Act 2008

## 2008 CHAPTER 32

### PART 2

#### ELECTRICITY FROM RENEWABLE SOURCES

##### *Offshore electricity transmission*

#### **44 Offshore electricity transmission**

- (1) Part 1 of the Electricity Act 1989 (electricity supply) is amended as follows.
- (2) After section 6C insert—

##### **“6D Section 6C: supplemental provision**

- (1) The provision made by regulations under section 6C(1) may also include—
  - (a) provision requiring a person within subsection (2), in relation to a tender exercise, to make payments to the Authority, in prescribed circumstances, in respect of the Authority's tender costs in relation to the exercise;
  - (b) provision requiring a person within subsection (2)(a) (“the relevant person”) in prescribed circumstances—
    - (i) to pay a deposit of a prescribed amount to the Authority, or to provide the Authority with security in a form approved by it, or
    - (ii) to make arrangements for a person approved by the Authority to pay to the Authority such a deposit or provide it with such security,in respect of any liability which the relevant person has, or may in future have, by virtue of paragraph (a);
  - (c) provision requiring the owner of a regulated asset, in a case where a transitional tender exercise has been held, to make a payment of a prescribed amount to the Authority in respect of any costs incurred by

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- the Authority in connection with any assessment of the costs which have been, or ought to have been, incurred in connection with that asset;
- (d) provision about the times at which payments are to be made under regulations made by virtue of paragraph (a) or (c) or deposits or other forms of security are to be provided under regulations made by virtue of paragraph (b);
  - (e) provision about—
    - (i) the circumstances in which a payment made in accordance with regulations made by virtue of paragraph (a) is to be repaid (wholly or in part);
    - (ii) the circumstances in which such a repayment is to include an amount representing interest accrued on the whole or part of the payment;
    - (iii) the circumstances in which a deposit (including any interest accrued on it) or other security provided in accordance with regulations made by virtue of paragraph (b) is to be released or forfeited (wholly or in part);
  - (f) provision about the effect on a person's participation in the tender exercise of a failure to comply with a requirement imposed by virtue of this subsection, and the circumstances in which the tender exercise is to stop as a result of such a failure.
- (2) The persons within this subsection, in relation to a tender exercise, are—
- (a) the person who made the connection request for the purposes of which the tender exercise has been, is being or is to be, held;
  - (b) any person who submits an application for the offshore transmission licence to which the tender exercise relates.
- (3) For the purposes of subsection (2)(a) a person makes a connection request when the person—
- (a) makes an application to the holder of a co-ordination licence (in accordance with any provision made by the licence) for an offer of connection to and use of a transmission system, or
  - (b) before the coming into force of section 180 of the Energy Act 2004 (meaning of “high voltage line”), makes an application to the holder of a distribution licence (in accordance with any provision made by the licence) for an offer of connection to and use of a system in circumstances where the application is for connection to and use of that system by a system—
    - (i) which was a distribution system at the time the application was made (or would have been had it been in existence at that time), and
    - (ii) which consists (wholly or mainly) of electric lines of a nominal voltage of 132 kilovolts.
- (4) A person (“P”) is to be treated as within subsection (2)(a) if—
- (a) P would have made the connection request, but for the fact that another person had already made an application within subsection (3) (a) or (b), and

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- (b) the benefit of that application, or any agreement resulting from it, is vested in P.
- (5) Where regulations are made by virtue of subsection (1)(a) or (b), regulations made by virtue of subsection (1)(e) must ensure that, as soon as reasonably practicable after a tender exercise is finished, steps are taken by the Authority, in accordance with the regulations, to ensure that the aggregate of—
- (a) any fees under section 6A(2) in respect of applications for the offshore transmission licence to which the tender exercise relates,
  - (b) any payments made in accordance with regulations made by virtue of subsection (1)(a) and not repaid, and
  - (c) the value of any security forfeited in accordance with regulations made by virtue of subsection (1)(e)(iii),
- does not exceed the Authority's tender costs.
- (6) Where regulations under section 6C—
- (a) restrict the making of applications for offshore transmission licences, or
  - (b) operate so as to prevent an application from being considered or further considered, if the applicant does not meet one or more prescribed requirements,
- such regulations may make provision enabling a person to apply to the Authority for a decision as to the effect of any such restriction or requirement if the person were to make an application for such a licence.
- (7) Regulations made by virtue of subsection (6) may enable the Authority to charge a person who makes such an application a prescribed fee for any decision given in response to it.
- (8) In this section—
- “co-ordination licence” means a transmission licence which authorises a person to co-ordinate and direct the flow of electricity onto and over a transmission system—
    - (a) by means of which the transmission of electricity takes place, and
    - (b) the whole or a part of which is at a relevant place (within the meaning of section 4(5));
  - “offshore transmission licence” has the same meaning as in section 6C;
  - “prescribed” has the same meaning as in that section;
  - “regulated asset”, in relation to a tender exercise, means an asset which the person granted the offshore transmission licence requires in order to enable that person to comply with the obligations under the licence;
  - “successful bidder”, in relation to a tender exercise, means the person to whom, as a result of that exercise, the offshore transmission licence has been, or is to be, granted;
  - “tender costs”, in relation to a tender exercise, means—
    - (a) any costs incurred or likely to be incurred by the Authority for the purposes of the exercise, and

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(b) such proportion as the Authority considers appropriate of the costs which—

(i) have been, or are likely to be, incurred by it under or for the purposes of section 6C or of regulations under that section, and

(ii) are not directly attributable to a particular tender exercise;

“tender exercise” means the steps taken in accordance with regulations under section 6C with a view to determining to whom a particular offshore transmission licence is to be granted;

“transitional tender exercise” means a tender exercise in relation to which paragraph 1(1) of Schedule 2A applies.

(9) Any sums received by the Authority under regulations made by virtue of this section are to be paid into the Consolidated Fund.

### **6E Property schemes in respect of offshore transmission licences**

Schedule 2A (which provides for property schemes in connection with grants of offshore transmission licences) shall have effect.”

(3) In section 64 (interpretation of Part 1), after subsection (1) insert—

“(1A) An electric line is a relevant offshore line for the purposes of the definition in subsection (1) of “high voltage line” if—

(a) it is wholly or partly in an area of GB internal waters, an area of the territorial sea adjacent to the United Kingdom or an area designated under section 1(7) of the Continental Shelf Act 1964, and

(b) it is—

(i) used to convey electricity to a place in Scotland, or

(ii) constructed wholly or mainly for the purpose of conveying, to any other place, electricity generated by a generating station situated in an area mentioned in paragraph (a).

(1AA) In subsection (1A)(a) “GB internal waters” means waters in or adjacent to Great Britain which are between the mean low water mark and the seaward limits of the territorial sea adjacent to Great Britain, but do not form part of that territorial sea.”

(4) Before Schedule 3 insert the Schedule set out in Schedule 2 (property schemes).

#### **Commencement Information**

**II** S. 44(1)(2)(4) in force at 20.5.2009 by S.I. 2009/1270, art. 2

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