

The Capacity Market (Amendment) Rules 2024

Presented to Parliament pursuant to section 41(9) of the
Energy Act 2013

The Capacity Market (Amendment) Rules 2024

1 Citation, Commencement and Interpretation

- 1.1 These Rules may be cited as the Capacity Market (Amendment) Rules 2024.
- 1.2 These Rules come into force on the day after the day on which these Rules are made.
- 1.3 In these Rules:
 - 1.3.1 “the Rules” means the Capacity Market Rules 2014 as amended by:
 - (i) the Capacity Market (Amendment) Rules 2014;
 - (ii) the Capacity Market (Amendment) (No. 2) Rules 2014;
 - (iii) the Capacity Market (Amendment) Rules 2015;
 - (iv) the Capacity Market (Amendment) (No. 2) Rules 2015;
 - (v) the Capacity Market (Amendment) Rules 2016;
 - (vi) the Capacity Market (Amendment) (No. 2) Rules 2016;
 - (vii) the Capacity Market (Amendment) (No. 3) Rules 2016;
 - (viii) the Capacity Market (Amendment) Rules 2017;
 - (ix) the Capacity Market (Amendment) (No. 2) Rules 2017;
 - (x) the Capacity Market (Amendment) (No. 3) Rules 2017;
 - (xi) the Capacity Market (Amendment) (No. 4) Rules 2017;
 - (xii) the Capacity Market (Amendment) Rules 2018;
 - (xiii) the Capacity Market (Amendment) Rules 2019;
 - (xiv) the Capacity Market (Amendment) (No. 2) Rules 2019;
 - (xv) the Capacity Market (Amendment) (No. 3) Rules 2019;
 - (xvi) the Capacity Market (Amendment) (No. 4) Rules 2019;
 - (xvii) the Capacity Market (Amendment) (No. 5) Rules 2019;
 - (xviii) the Capacity Market (Amendment) Rules 2020;
 - (xix) the Capacity Market (Amendment) (No. 2) Rules 2020;
 - (xx) the Capacity Market (Amendment) (No. 3) Rules 2020;
 - (xxi) the Capacity Market (Amendment) Rules 2021;

- (xxii) the Capacity Market (Amendment) (No. 2) Rules 2021;
- (xxiii) the Capacity Market (Amendment) Rules 2022;
- (xxiv) the Capacity Market (Amendment) (No. 2) Rules 2022; and
- (xxv) the Capacity Market (Amendment) Rules 2023;

1.3.2 a reference to a Chapter, Rule or numbered Schedule by number alone is a reference to the Chapter, Rule or Schedule so numbered in the Rules; and

1.3.3 expressions which are defined in the Rules have the same meaning as in the Rules.

2 Amendments

2.1 The Rules are amended as set out in the Schedule to these Rules.

A handwritten signature in black ink, reading "Ed Miliband". The signature is written in a cursive style with a long horizontal flourish at the end.

Edward Miliband

Secretary of State

Department for Energy Security and Net Zero

SCHEDULE

Part 1

Mothballed plant

1 Amendments to Chapter 3 (Prequalification Information)

- 1.1 In Rule 3.6.1 (Previous Settlement Period Performance):
 - 1.1.1 in Rule 3.6.1(aa), for "2023/2024" substitute "2024/2025";
 - 1.1.2 in Rule 3.6.1(aa), for "the 2023 Prequalification Window", in each place it occurs, substitute "the 2024 Prequalification Window".

Part 2

Batteries

2 Amendments to Chapter 1 (General Provisions)

- 2.1 In Rule 1.2 (definitions):
 - 2.1.1 after the definition of "Export", insert:

""extended performance" has the meaning given in Rule 13.4A.3";
 - 2.1.2 after the definition of "Financial Commitment Milestone", insert:

"First Demonstration Day" has the meaning given in Rule 13.4A.2(a)(i)";
 - 2.1.3 after the definition of "Own Group Resources" insert:

"Permitted Battery Augmentation" has the meaning given in Rule 4.4.4A";
 - 2.1.4 after the definition of "Required Technical Standard" insert:

"Re-Test Window" has the meaning given in Rule 13.4A.5(aa) or (ab) as applicable".

3 Amendments to Chapter 4 (Determination of Eligibility)

- 3.1 In Rule 4.4 (decisions to be made by the Delivery Body):
 - 3.1.1 in Rule 4.4.4, after "Prequalified" insert "unless the change is a Permitted Battery Augmentation";
 - 3.1.2 after Rule 4.4.4 insert:

"4.4.4A Permitted Battery Augmentation

- (a) "Permitted Battery Augmentation" means any change in the configuration of a relevant CMU that:
 - (i) consists in, or is incidental to:
 - (aa) the replacement of batteries comprised; or
 - (bb) the installation of additional batteries in, that relevant CMU; and
 - (ii) does not adversely affect that relevant CMU's ability to demonstrate satisfactory performance pursuant to Rule 13.4 or extended performance pursuant to Rule 13.4A,
- (b) For the purposes of this Rule 4.4.4A, a "relevant CMU" is a Capacity Committed CMU:
 - (i) that is in a Storage Generating Technology Class that is Duration Limited, or that is an Unproven DSR CMU to which Rule 13.4A.3A applies; and
 - (ii) in respect of which no work is carried out in any Delivery Year (including after the carrying out of work within paragraph (a)) that enables that CMU to provide capacity or demonstrate performance by means of a connection to a Generating Unit or DSR CMU Component comprised in another CMU."

4 Amendment to Chapter 9 (Transfer of Capacity Obligations)

4.1 In Rule 9.5 (Transfers and testing):

4.1.1 in Rule 9.5.8, after "Rule 13.4A.2" insert ", taking account of Rule 13.4A.4(c) and (d)".

5 Amendments to Chapter 13 (Testing Regime)

5.1 In Rule 13.4A (demonstrating extended performance):

5.1.1 in Rule 13.4A.2(a)(i), after "Capacity Committed CMU" insert "("First Demonstration Day)";

5.1.2 After Rule 13.4A.3, insert:

"13.4A.3ZA in this Rule 13.4A, "a Rule 13.4A.3ZA CMU" means a CMU which (as the case may be):

- (a) is subject to a Capacity Agreement which has its first scheduled Delivery Year commencing on 1 October 2024 or any subsequent Delivery Year; or
- (b) is awarded a Capacity Agreement after the Capacity Market (Amendment) Rules 2024 come into force."

5.1.3 in Rule 13.4A.4:

- (i) in Rule 13.4A.4(a), at the beginning, insert "subject to paragraphs (aa) to (d)";
- (ii) in Rule 13.4A.4(aa), at the beginning, insert "subject to paragraphs (b) to (d)";
- (iii) in Rule 13.4A.4(b), at the beginning, insert "subject to paragraphs (c) and (d)";
- (iv) after Rule 13.4A.4(b), insert:

"(c) subject to Rule 13.4A.4(d), in respect of a Rule 13.4A.3ZA CMU, if, as a result of one or more transfers effected on the Capacity Market Register in accordance with Rule 9.2.5 and Rule 9.3, all or part of a Capacity Obligation is transferred under Rule 9.2.4(a), to or from:

- (i) a Capacity Committed CMU in a Storage Generating Technology Class that is Duration Limited, or
- (ii) a Capacity Committed CMU that is an Unproven DSR CMU to which Rule 13.4A.3A applies,

the capacity of that Capacity Committed CMU given by paragraph (a), (aa) or (b), is decreased or increased by the same proportion (if any) as the Capacity Obligation of the CMU Transferor or CMU Transferee has been reduced or increased by that transfer (or the combination of such transfers if there is more than one) at the date on which extended performance is demonstrated; and

- (d) if:
 - (i) the capacity of a Capacity Committed CMU is increased because of one or more transfers referred to in paragraph (c);
 - (ii) as a result of that transfer or transfers, a Re-Test Window has begun in accordance with Rule 13.4A.5(aa);
 - (iii) during that Re-Test Window, any further such transfer is effected on the Capacity Market Register and has effect,

the capacity of that Capacity Committed CMU given by paragraph (a), (aa), or (b) increased by the same proportion as the highest Capacity Obligation held by the CMU Transferee during the Re-Test Window.";

5.1.4 for Rule 13.4A.5(a), substitute:

- "(a) Rule 13.4A.2 is subject to this Rule 13.4A.5 which specifies when extended performance is to be demonstrated in different cases.
- (aa) Subject to paragraph (ab), in respect of a Rule 13.4A.3ZA CMU, if a Capacity Committed CMU in a Storage Generating Technology Class that is Duration Limited, or a Capacity Committed CMU that is an Unproven DSR CMU to which Rule 13.4A.3A applies (a "relevant CMU") has a Capacity Obligation that exceeds its Capacity Obligation at the time of its most recent demonstration of extended performance (the amount of such excess being its "untested obligation"):

- (i) in the first Delivery Year in which this Rule 13.4A applies to the Capacity Committed CMU, after the First Demonstration Day, or
- (ii) in any subsequent Delivery Year, before the next Satisfactory Performance Day on which extended performance is due to be demonstrated under Rule 13.4A.2(b),

the relevant CMU must demonstrate extended performance on a day that falls in the period that starts on the day the transfer is effected on the Capacity Market Register and has effect and ends sixty (60) Working Days later, or at the end of the Delivery Year if that occurs sooner ("Re-Test Window"), and subsequently no less frequently than during at least one Satisfactory Performance Day in every third Capacity Year following that Delivery Year.

- (ab) Where a relevant CMU has, as at the first day of a Delivery Year, an untested obligation as defined in paragraph (aa) but otherwise than as a result of a transfer having been effected on the Capacity Market Register, it must demonstrate extended performance on a day that falls in the period that starts on the first day of the next Delivery Year and ends sixty (60) working days later, and subsequently no less frequently than during at least one Satisfactory Performance Day in every third Capacity Year following that Delivery Year.";

5.1.5 for Rule 13.4A.7(a), substitute:

- "(a) the Capacity Committed CMU must demonstrate extended performance during:
 - (i) the period from 1 May to 31 July in the relevant Delivery Year (both dates inclusive), or
 - (ii) in respect of a Rule 13.4A.3ZA CMU, a Re-test Window
 ("remedial extended performance"), whether or not during an additional Satisfactory Performance Day under Rule 13.4.1ZA(a); and";

5.1.6 in Rule 13.4A.7(b), at the beginning, insert: "save where the Capacity Committed CMU is required to demonstrate extended performance in accordance with paragraph (a)(ii),".

Part 3

Independent Emissions Verification

6 Amendment of Rule 1.2 (definitions)

6.1 In Rule 1.2 (definitions):

6.1.1 in the definition of "Emissions Year":

- (a) in paragraph (a), before "in respect of", insert "subject to paragraph (c)";
- (b) in paragraph (b), before "in respect of", insert "subject to paragraph (c)";
- (c) after paragraph (b), insert:

- "(c) in respect of a Fossil Fuel Emissions Declaration, whether provided with an Application or otherwise, that includes the results of calculations made in accordance with formulae set out in Schedule 8 and using data from a Qualifying CHPQA Certificate, means the period of 12 months covered by the Qualifying CHPQA Certificate";

7 Amendments to Chapter 3 (prequalification information)

7.1 In Rule 3.6.5 (Fossil Fuel Emissions Declaration):

- a) in paragraph (a), for "and Rule 3.6.5(d)", substitute ", Rule 3.6.5(d), and Rule 3.18.2";
- b) in paragraph (b), after the words "not required to provide a", insert "new";
- c) in paragraph (b), at the end, insert "however, an Applicant relying on this Rule 3.6.5(b) must reuse a previous Fossil Fuel Emissions Declaration as described in Rule 3.6.5ZA".

7.2 After Rule 3.6.5 (Fossil Fuel Emissions Declaration), insert:

"3.6.5ZA Fossil Fuel Emissions Declaration: Reuse

- (a) In relation to an Application that it is making ("Application A"), an Applicant relying on Rule 3.6.5(b) must reuse a previous Fossil Fuel Emissions Declaration (as defined in Rule 3.6.5(b)(i)) by:
 - (i) providing, with Application A, a copy of the previous Fossil Fuel Emissions Declaration; and
 - (ii) it must be clear from that previous Fossil Fuel Emissions Declaration that it relates to the same CMU in respect of which Application A is being made.
- (b) This Rule 3.9.5ZA applies notwithstanding Rule 3.3.6A(c)(v) and Rule 3.3.6A(c)(xx).

7.3 In Rule 3.9.5 (Fossil Fuel Emissions Declaration):

- a) in paragraph (a), for "and Rule 3.9.5(d)", substitute ", Rule 3.9.5(d), and Rule 3.18.2";
- b) in paragraph (b), after the words "not required to provide a", insert "new";
- c) in paragraph (b), at the end, insert "however, an Applicant relying on this Rule 3.9.5(b) must reuse a previous Fossil Fuel Emissions Declaration as described in Rule 3.9.5ZA".

7.4 After Rule 3.9.5 (Fossil Fuel Emissions Declaration), insert:

"3.9.5ZA Fossil Fuel Emissions Declaration: Reuse

- (i) In relation to an Application that it is making ("Application A"), an Applicant must reuse a previous Fossil Fuel Emissions Declaration (as defined in Rule 3.9.5(b)(i)) by:

- (a) providing, with Application A, a copy of the previous Fossil Fuel Emissions Declaration; and
 - (b) it must be clear from that previous Fossil Fuel Emissions Declaration that it relates to the same CMU in respect of which Application A is being made.
- (ii) This Rule 3.9.5ZA applies notwithstanding Rule 3.3.6A(c)(xiii) and Rule 3.3.6A(c)(xx).

7.5 After Rule 3.16 (provision of information by the Delivery Body), insert:

"3.17 Fossil Fuel Emissions Declarations provided with an Application: Old forms

3.17.1 Use of old form of Exhibit ZA

- (a) This Rule 3.17.1 applies where:
 - (i) an amendment to the Rules changes the form of Fossil Fuel Emissions Declaration (a "relevant amendment"), whether by amendment to or replacement of Exhibit ZA or otherwise;
 - (ii) as a result of the relevant amendment, but for this Rule, from a date specified in the provision of the Rules that makes the relevant amendment (the "relevant date"), a requirement to provide a Fossil Fuel Emissions Declaration must be satisfied by submitting a form of declaration prescribed (or incorporating amendments prescribed) in the relevant amendment (the "new form"), rather than the form of declaration required to be used immediately before the relevant date when satisfying such requirements (the "old form").
- (b) Where a relevant amendment comes into force on or after the date on which the Capacity Market (Amendment) Rules 2024 come into force, an Applicant may provide with its Application a Fossil Fuel Emissions Declaration in the old form (an "old form Exhibit ZA") if:
 - (i) the old form declaration was correctly completed and signed by an Independent Emissions Verifier; and
 - (ii) the date given in the Independent Emissions Verifier's signature on the old form declaration is no later than four weeks after the relevant date.

3.18 Existing Generating CMUs and Proven DSR CMUs: provision of Fossil Fuel Emissions Declaration after Application

3.18.1 In this Rule 3.18:

- (a) "IEV" means Independent Emissions Verifier;
- (b) "relevant Application" means an Application:
 - (i) in respect of an Existing Generating CMU, with which the Applicant is required to provide a Fossil Fuel Emissions Declaration under Rule 3.6.5, and is not exempted from that requirement by another provision of Rule 3.6;

- (ii) in respect of a Proven DSR CMU, with which the Applicant is required to provide a Fossil Fuel Emissions Declaration under Rule 3.9.5, and is not exempted from that requirement by another provision of Rule 3.9;
- (c) "relevant date" means, in respect of an Application, the date falling 22 Working Days prior to the commencement of the first Bidding Window for the Capacity Auction to which the Application relates;
- (d) "relevant period" means the period that begins on the day after the last day of the Prequalification Window in which the Application is made and ends on the last Working Day before the relevant date.

3.18.2 Where the conditions set out in Rule 3.18.3 are met, an Applicant may, notwithstanding the requirements of Rule 3.6 or 3.9 as the case may be, submit a relevant Application without providing a Fossil Fuel Emissions Declaration in respect of the CMU to which that Application relates.

3.18.3 The conditions set out in this Rule are that the Applicant:

- (a) declares in the Application that, no later than the relevant date, it will:
 - (i) complete a Fossil Fuel Emissions Declaration in respect of the CMU to which the Application relates as required under Rule 3.6.5 or Rule 3.9.5 as the case may be;
 - (ii) have the Fossil Fuel Emissions Declaration verified in accordance with Rule 3.15.1; and
 - (iii) provide the Fossil Fuel Emissions Declaration to the Delivery Body,
- (b) provides with its Application a copy of an email from an IEV:
 - (i) in which the IEV makes a commitment that, on or before a date specified in the email that falls within the relevant period, it will:
 - (aa) verify information contained in the Fossil Fuel Emissions Declaration; and
 - (bb) complete Part 9 of the Fossil Fuel Emissions Declaration, as required under the Rules;
 - (ii) that makes it clear:
 - (aa) that the IEV's commitment under paragraph (i) is made pursuant to an existing contract between the Applicant and the IEV or itself records the terms of such a contract in respect of such verification; and
 - (bb) by reference to one or more items of data uniquely associated with the CMU to which the Application relates and the Fossil Fuel Emissions Declaration will relate, it is that

CMU in respect of which the IEV's commitment under paragraph (i) is made."

8 Amendments to Chapter 4 (determination of eligibility)

8.1 In Rule 4.4.2(j) (decisions to be taken by the Delivery Body), for the words from "but" to the end, substitute:

"but:

- (i) has not done so; or
- (ii) has provided a Fossil Fuel Emissions Declaration:
 - (aa) which is in an old form Exhibit ZA (as defined in Rule 3.17.1(a), in circumstances where the provision of an old form Exhibit ZA is not permitted by Rule 3.17.1; or
 - (bb) which the Delivery Body considers does not fully address the matters set out in Exhibit ZA;"

8.2 In Rule 4.5.1 (notification of Prequalification decision to Applicants), after paragraph (v), insert:

"(vza) if the Applicant has made a declaration pursuant to Rule 3.18.3(a), that its Prequalification is conditional upon the Applicant providing a Fossil Fuel Emissions Declaration in accordance with Rule 4.7BA.1;"

8.3 After Rule 4.7 (Conditional Prequalification – Planning Consents), insert:

"4.7BA Conditional Prequalification – delayed provision of Fossil Fuel Emissions Declaration

4.7BA.1 An Applicant that has provided with its Application a declaration pursuant to Rule 3.18.3(a) must provide to the Delivery Body a Fossil Fuel Emissions Declaration in respect of the CMU to which the Application relates no later than the date falling 22 Working Days prior to the commencement of the first Bidding Window for the Capacity Auction to which the Application relates.

4.7BA.2 On the date falling 16 Working Days prior to the commencement of the first Bidding Window the Delivery Body must notify the Applicant in relation to each CMU to which this Rule 4.7BA applies whether or not it has Prequalified, based solely on whether or not the Delivery Body has received the documentation referred to in Rule 4.7BA.1."

9 Amendments to Exhibit ZA (form of Fossil Fuel Emissions Declaration)

9.1 After the title, insert:

"[FOR USE FROM [INSERT DATE] 2024, EXCEPT AS PERMITTED BY RULE 3.15.6(b)]"

9.2 In Part 5:

9.2.1 after the heading for Part 5, in the italicised sentence in parentheses, omit "(a), (b),";

- 9.2.2 omit the text of paragraph (a);
- 9.2.3 omit the text of paragraph (b).
- 9.3 Omit the title and text of Part 6.
- 9.4 In Part 9:
 - 9.4.1 in paragraph 1, sub-paragraph (a), for "pursuant to Part 6", substitute "in support of that information";
 - 9.4.2 in paragraph 1, sub-paragraph (b):
 - (i) for "pursuant to Part 6", substitute "in support of that information";
 - (ii) at the end, insert: "the technical specification(s) / performance test(s) of combustion units made available by the operator and attached to this declaration. These documents have been accepted as representative of current operations in the absence of alternative data sources. The risk of mis-statement of data in Part 3 due to the age, degradation or non-optimum condition of the combustion units in operation has not been taken into account in the verification process";
 - 9.4.3 in paragraph 2, for "pursuant to Part 6", substitute "in support of that information".

Part 4

General

10 Amendment to Rule 1.2 (definitions)

- 10.1 In Rule 1.2 (definitions), in the definition of "**the Regulations**", after "the Electricity Capacity (Amendment) Regulations 2021," insert "the Electricity Capacity (Amendment) Regulations 2023".