

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT ELECTRICITY CAPACITY (AMENDMENT)  
REGULATIONS 2021

*Monday 12 July 2021*

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**Friday 16 July 2021**

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**The Committee consisted of the following Members:**

*Chair:* GRAHAM STRINGER

Burton, Richard (*Leeds East*) (Lab)  
 † Caulfield, Maria (*Lewes*) (Con)  
 Coyle, Neil (*Bermondsey and Old Southwark*) (Lab)  
 Davies, Geraint (*Swansea West*) (Lab/Co-op)  
 Duguid, David (*Parliamentary Under-Secretary of State for Scotland*)  
 Eagle, Dame Angela (*Wallasey*) (Lab)  
 † Gideon, Jo (*Stoke-on-Trent Central*) (Con)  
 Harris, Rebecca (*Lord Commissioner of Her Majesty's Treasury*)  
 † Mak, Alan (*Lord Commissioner of Her Majesty's Treasury*)  
 Mann, Scott (*Lord Commissioner of Her Majesty's Treasury*)

Pursglove, Tom (*Corby*) (Con)  
 Rutley, David (*Lord Commissioner of Her Majesty's Treasury*)  
 Thomson, Richard (*Gordon*) (SNP)  
 Throup, Maggie (*Lord Commissioner of Her Majesty's Treasury*)  
 † Trevelyan, Anne-Marie (*Minister for Business, Energy and Clean Growth*)  
 † Twist, Liz (*Blaydon*) (Lab)  
 † Whitehead, Dr Alan (*Southampton, Test*) (Lab)  
 Seb Newman, George James, *Committee Clerks*  
 † **attended the Committee**

## Second Delegated Legislation Committee

Monday 12 July 2021

[GRAHAM STRINGER *in the Chair*]

### Draft Electricity Capacity (Amendment) Regulations 2021

6 pm

**The Chair:** We have moved to 1 metre-plus social distancing in General Committees. Members should still sit only in places that are clearly marked. Mr Speaker has stated that, unless Members are exempt, they should wear masks in Committee, except when speaking.

**The Minister for Business, Energy and Clean Growth (Anne-Marie Trevelyan):** I beg to move,

That the Committee has considered the draft Electricity Capacity (Amendment) Regulations 2021.

It is a pleasure to serve under your chairmanship, Mr Stringer.

The draft regulations were laid before the House on 21 June. Before I outline their provisions, I will briefly provide some context. The capacity market is at the heart of the Government's strategy for maintaining security of electricity supplies in Great Britain. It secures the capacity needed to meet future peak electricity demand under a range of scenarios through competitive, technology-neutral auctions, normally held four years and one year ahead of the relevant delivery year. Those who win capacity agreements, known as capacity providers, commit to providing capacity during period of system stress in exchange for capacity payments. Capacity payments are funded by electricity suppliers, who recover the cost from electricity consumers. Since its introduction in 2014, the capacity market has succeeded in ensuring secure electricity supplies at a low cost to consumers.

To ensure that the capacity market continues to function effectively, we regularly make adjustments to legislation, based on our experience of managing the market's annual cycle. This instrument makes three technical improvements that will address issues that we encountered over the past year. A number of capacity providers had agreements terminated last year but were unable to transfer their obligations to other providers through the secondary market due to legislative barriers. The instrument aims to remove those barriers, and so improve the flexibility of the secondary trading regime, making it easier to replace capacity that closes prematurely and at short notice, and reducing risk to security of supply.

In the past year, there were a large number of appeals by prospective capacity providers whose applications to participate in the capacity market had been rejected. This was often for minor administrative errors. The instrument aims to make it clearer that the capacity market delivery body, the organisation that administers the capacity market, can accept information that corrects such errors when determining these appeals. This will reduce the risk of applicants being rejected for minor administrative errors, and prevent a detrimental impact on competition in the auctions.

Finally, we recently introduced new requirements on capacity providers that, if not met, could result in reductions to their agreement lengths. Given that such a reduction could have a significant impact on the viability of capacity providers' projects, it is right that those in that situation have the right to appeal. The draft instrument will therefore allow capacity providers who have had the duration of their agreement reduced as a sanction for non-compliance with certain requirements the option of appealing the decision to the Secretary of State.

Alongside this instrument, we have put forward an amendment to the capacity market rules; it was laid before the House on 5 July. The amendment makes necessary changes that complement this draft instrument and a number of other technical improvements; most notably, it updates carbon emissions limits and extends some coronavirus easements, both of which were introduced last year.

In conclusion, this instrument introduces a number of technical provisions that are intended to address issues identified through the annual delivery cycle of the capacity market, and that are therefore necessary to enable its continued efficient operation. I commend it to the Committee.

6.3 pm

**Dr Alan Whitehead** (Southampton, Test) (Lab): It is a pleasure to serve under your chairmanship, Mr Stringer, although I fear that there will not be much chairmanship of today's proceedings required. I say that because the instrument is pretty much wholly non-contentious. It makes a number of sensible revisions to how the capacity market works, particularly in respect of those aggrieved would-be capacity market entrants who have been excluded from participating in capacity markets, often not for terribly sensible reasons—it will ease that problem considerably.

The instrument does not make any major changes to the operation of the capacity market. It essentially does a number of things that will undoubtedly make the operation of a capacity market a little more straightforward.

We need to draw a distinction between this SI, which makes, shall we say, some lubrication easements for the capacity market, and the principle of the capacity market itself. That is where we start to get into areas of controversy: the Minister mentioned just how important and central the capacity market is to the Government in their management of the energy market as a whole. I would say that, on the contrary, the capacity market at the moment is mainly an arrangement to provide free money for a number of providers who probably would provide anyway. They get money for being around to guarantee that they will provide. I might also note that that is not actually to provide any energy for anybody—it is to guarantee that they will be there, should the need arise for capacity to be provided.

We have seen in the capacity market, which is now about seven years old, a number of instances in which some quite perverse outcomes have occurred in the market provision. For example, one is the inclusion of nuclear power in the capacity market auction process when, as most people will know, it is actually very difficult to switch a nuclear power station off so that it does not provide. A nuclear power station bidding into the capacity market arrangements, and saying that it will provide, is the most egregious example of free money for doing what it would have done anyway.

The original purpose of the capacity market was largely to ensure that the price under capacity restraints would not go to such a high slot outside the major hour-by-hour provisions. Investors might fear that the Government would intervene if energy prices got high enough to have an effect on capacity, when there were tight capacity margins. That has not materialised. There are no tight margins these days, generally speaking. Indeed, as the market progresses with further provision of capacity and interconnection, that will be even less of an issue. The low price of capacity market auctions indicates, among many other things, that capacity margins—

**The Chair:** Order. We have plenty of time, and while I do not wish to test my skills in the Chair too much, and the hon. Gentleman is making some very interesting points, I remind him that the debate should be limited to discussion of the instrument in question.

**Dr Whitehead:** Thank you, Mr Stringer. I intend to bring my remarks to a close shortly. Subject to your guidance, I think that my remarks are generally in line with the statutory instrument, because these are considerations for the better running of a capacity market that has problems ahead. The wider and the narrower issues are related for that reason.

The Minister has heard me speak about the capacity market before. It is due for a second five-year review shortly. The last review, in 2019, when it had been operating for five years, was, I thought, a pretty complacent document. It did not address a number of the issues that I have started to explore this evening. Although the changes that we are talking about today are pretty non-contentious and straightforward, and have the support of the Opposition, I hope that the Minister will accept that there remain wider controversies about the capacity market, and that she will take them as seriously as possible, particularly in that second review. I hope that

she will consider whether the market is the best mechanism for ensuring a reliable capacity supply in future; she will know that various alternatives, such as a strategic reserve, were mooted when the capacity market originally came in. I hope she will look at that very seriously when the wider issue comes up for debate at a not-too-distant time. Meanwhile, I look forward to a number of other non-contentious debates as we secure marginally better working of the present system, pending arrangements for a future system that is fit for purpose.

6.12 pm

**Anne-Marie Trevelyan:** I thank the hon. Gentleman for his remarks, which were careful and considered, as ever, and for his support for the statutory instrument. The Government continue to believe that the capacity market is the right mechanism at the moment for delivering security of supply at low cost to consumers, but we will of course continue to review it and ensure its ongoing efficient and effective operation in the years ahead. I absolutely note his point that the next review will be an opportunity for consideration as our energy mix continues to change to include more renewables and cleaner energy sources. It will be an opportunity to think about whether the capacity market continues to be the right tool.

The draft regulations respond to three specific technical issues that we have encountered in the past year in operating the capacity market. They introduce increased flexibility for market participants and the capacity market delivery body, so that the market continues to deliver its objective of guaranteeing secure electricity supplies at the lowest cost to consumers. I therefore commend them to the Committee.

*Question put and agreed to.*

6.13 pm

*Committee rose.*





