

ENERGY ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Electricity Market Reform

Chapter 2: Contracts for difference

Section 8: Duties of a CFD counterparty

93. This section makes it clear that it is a duty of a person who has been designated as a CFD counterparty to comply with the regulations and any direction made under these provisions. This will include the requirement for the CFD counterparty to enter into a CFD with a generator when the Secretary of State has directed it to or the national system operator has given a notification under section 12, and to comply with any requirements designed to ensure it manages the contracts in line with the direction of the Secretary of State. The national system operator is currently National Grid Electricity Transmission PLC.
94. *Subsection (2)* also places a duty on the CFD counterparty to exercise its functions to ensure that it can meet its liabilities under a CFD. Those functions are principally those conferred under or by virtue of *section 9* (Supplier obligation) in relation to the ability of the CFD counterparty to recover sums from licenced electricity suppliers. “Liabilities” in this context includes all liabilities under a CFD. For these purposes, liabilities will exist in respect of any sums that are owed at a particular time by the counterparty under the CFD, irrespective of whether they have yet become payable in accordance with any payment provisions it contains.