
STATUTORY INSTRUMENTS

2020 No. 1016

**The Electricity and Gas etc. (Amendment)
(EU Exit) Regulations 2020**

Amendments to the Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019

3.—(1) The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019⁽¹⁾ are amended as follows.

(2) In regulation 1—

- (a) in the heading, for “and extent” substitute “, extent and interpretation”;
- (b) after paragraph (2) insert—

“(3) In these Regulations, “the Electricity Regulation” means Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) and “predecessor”, in relation to that Regulation, means Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network of cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003.”.

(3) In regulation 14, for “exit day” substitute “IP completion day”.

(4) In regulation 15(6), for “exit day”, in each place it occurs, substitute “IP completion day”.

(5) In regulation 16—

- (a) in paragraph (5), for “exit day” substitute “IP completion day”;
- (b) in paragraph (7)—
 - (i) for “exit day”, in each place it occurs, substitute “IP completion day”;
 - (ii) for subsection (11)(a) substitute—

“(a) Article 14(1) is to be read as if the second and third sentences were omitted;”.

(6) In regulation 17—

- (a) in paragraph (6), for “exit day”, in each place it occurs, substitute “IP completion day”;
- (b) in paragraph (7), in the definition of “the Gas Directive” at the end insert “, as amended by Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019”.

(7) In regulation 20(1)(a), for “exit day” substitute “IP completion day”.

(8) In regulation 21(10), for “exit day”, in each place it occurs, substitute “IP completion day”.

(9) In regulation 25(5), for “exit day”, in each place it occurs, substitute “IP completion day”.

(10) In regulation 27(5), for “exit day”, in each place it occurs, substitute “IP completion day”.

(11) In regulation 28(3), for “exit day” substitute “IP completion day”.

(12) In regulation 31(4), for “exit day”, in each place it occurs, substitute “IP completion day”.

(13) In regulation 34(3), for “exit day” substitute “IP completion day”.

- (14) In regulation 35(4)—
- (a) omit “as amended from time to time on or after exit day,”;
 - (b) for “exit day”, in each place it occurs, substitute “IP completion day”.
- (15) In regulation 37(4), for “exit day”, in each place it occurs, substitute “IP completion day”.
- (16) In regulation 45, for “exit day” substitute “IP completion day”.
- (17) In regulation 46(6)—
- (a) for the words from “Article 3 of” to “Regulation (EC) No 1228/2003” substitute “Article 51 of the Electricity Regulation (or Article 3 of its predecessor)”;
 - (b) for “Article 3” (in the second place it occurs) substitute “Article 51 of the Electricity Regulation”;
 - (c) for “exit day”, in each place it occurs, substitute “IP completion day”.
- (18) In regulation 47—
- (a) in paragraph (2)(a)(ii), omit “whether”;
 - (b) in paragraph (5), for “exit day” substitute “IP completion day”.
- (19) In regulation 48—
- (a) in paragraph (6), for “exit day”, in each place it occurs, substitute “IP completion day”.
 - (b) in paragraph (7), omit the definition of “the Electricity Regulation”.
- (20) In regulation 51(1)(a), for “exit day” substitute “IP completion day”.
- (21) In regulation 52(10)—
- (a) for the words from “Article 3 of” to “Regulation (EC) No 1228/2003” substitute “Article 51 of the Electricity Regulation (or Article 3 of its predecessor)”;
 - (b) for “Article 3” (in the second place it occurs) substitute “Article 51 of the Electricity Regulation”;
 - (c) for “exit day”, in each place it occurs, substitute “IP completion day”.
- (22) For regulation 54 substitute—
- “54.** In section 25 (orders for securing compliance), in subsection (8)—
- (a) in the definition of “regulated person” omit paragraph (e);
 - (b) in the definition of “relevant requirement”, omit paragraph (b) and the “and” before it.”.
- (23) In regulation 56(4), for “exit day”, in each place it occurs, substitute “IP completion day”.
- (24) In regulation 60(6), for the definition of “designated regulatory function” substitute—
- ““designated regulatory function” means—
- (a) a function of the Authority conferred by—
 - (i) a provision of retained EU law, or
 - (ii) a condition in a licence under section 6 as that condition is modified from time to time after IP completion day,

where that function was, immediately before IP completion day, one of its functions as a regulatory authority designated in accordance with Article 35 of the Electricity Directive;
 - (b) a function of the Northern Ireland Authority as a regulatory authority designated in accordance with Article 35 of the Electricity Directive;”.
- (25) In regulation 62—
- (a) in paragraph (1), for “(2) to (4)” substitute “(1A) to (4A)”;

- (b) after paragraph (1) insert—
 - “(1A) In paragraph 1 (relevant provisions in relation to all licence holders)—
 - (a) omit paragraph (ca);
 - (b) omit paragraph (f).”;
 - (c) for paragraph (2) substitute—
 - “(2) In paragraph 4 (persons required to be certified as to independence)—
 - (a) in paragraph (ca), omit—
 - (i) “the CACM Regulation,”;
 - (ii) “or the FCA Regulation”;
 - (b) in paragraph (d)—
 - (i) in sub-paragraph (iv), for “16(1) to (4)” substitute “16(1), (2), (4)”;
 - (ii) omit sub-paragraph (v);
 - (iii) omit sub-paragraphs (viii) to (xi);
 - (iv) omit sub-paragraph (xiii);
 - (c) omit paragraph (g).”;
 - (d) after paragraph (4) insert—
 - “(4A) In paragraph 10 (interpretation), omit the definition of “the FCA Regulation”.”;
 - (e) in paragraph (5), for “exit day”, in each place it occurs, substitute “IP completion day”.
- (26) In regulation 69(3), for “exit day”, in each place it occurs, substitute “IP completion day”.
- (27) In regulation 70(e), for the definition of “designated regulatory function” substitute—
““designated regulatory function” means—
- (a) a function of the Authority conferred by—
 - (i) a provision of retained EU law,
 - (ii) a condition in a licence under section 7, 7ZA or 7A of the 1986 Act, as that condition is modified from time to time on or after IP completion day, or
 - (iii) a condition in a licence under section 6 of the 1989 Act, as that condition is modified from time to time on or after IP completion day,where that function was, immediately before IP completion day, one of its functions as a regulatory authority designated in accordance with Article 35 of the Electricity Directive or Article 39 of the Gas Directive;
 - (b) a function of the Northern Ireland Authority conferred by—
 - (i) a provision of retained EU law, or
 - (ii) a condition in a licence under Article 8 of the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2)), as that condition is modified from time to time on or after IP completion day,where that function was, immediately before IP completion day, one of its functions as a regulatory authority designated in accordance with Article 39 of the Gas Directive;
 - (c) a function of the Northern Ireland Authority as a regulatory authority designated in accordance with Article 35 of the Electricity Directive;”.
- (28) In regulation 77, for “exit day” substitute “IP completion day”.

- (29) In regulation 81(3)(2)—
- (a) after sub-paragraph (c) insert—
 - “(ca) the definition of “ACER Regulation”;;”;
 - (b) after sub-paragraph (d) insert—
 - “(da) the definition of “Electricity Regulation”;;”.
- (30) Omit regulations 84 to 103.
- (31) In regulation 109, for “exit day” substitute “IP completion day”.
- (32) In regulation 110(7), for “exit day”, in each place it occurs, substitute “IP completion day”.
- (33) In regulation 111(8), in paragraph (9)—
- (a) for sub-paragraphs (a) and (b) substitute—
 - “(a) in paragraph (1) of Article 14 the reference to “Member State” in the first sentence is to be read as if it were a reference to the Authority;
 - (b) paragraph (1) of Article 14 is to be read as if the second and third sentences were omitted;
 - (ba) in paragraph (2) of Article 14 the reference to “Member State” is to be read as if it were a reference to the Authority;;”;
 - (b) in sub-paragraph (c), for “exit day” substitute “IP completion day”.
- (34) In regulation 112—
- (a) in paragraph (6), for “exit day”, in each place it occurs, substitute “IP completion day”;
 - (b) in paragraph (7), in the definition of “the Gas Directive” at the end insert “, as amended by Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019.”.
- (35) In regulation 113(2)(a), for “exit day” substitute “IP completion day”.
- (36) In regulation 115(9), for “exit day”, in each place it occurs, substitute “IP completion day”.
- (37) In regulation 120(4), for “exit day” substitute “IP completion day”.
- (38) In regulation 121(3), for “exit day” substitute “IP completion day”.
- (39) In regulation 122(3), for “exit day”, in each place it occurs, substitute “IP completion day”.
- (40) In regulation 125, for “exit day” in each place it occurs, substitute “IP completion day”.
- (41) In regulation 128—
- (a) omit sub-paragraphs (a) and (b);
 - (b) for sub-paragraph (c) substitute—
 - “(c) in the definition of “designated regulatory authority” omit the words “or Article 39 of the Gas Directive”;;”;
 - (c) after sub-paragraph (c) insert—
 - “(ca) omit the definition of “Third Package”;;”;
 - (d) in sub-paragraph (d)—
 - (i) omit the definition of “designated regulatory electricity function”;
 - (ii) omit the definition of “the designated regulatory electricity objectives”;
 - (iii) omit the definition of “designated regulatory functions”;
 - (iv) for the definition of “designated regulatory gas function” substitute—

““designated regulatory gas functions” means any function of the Authority conferred by—

- (a) a provision of retained EU law, or
- (b) a condition in a licence under Article 8 of the Gas Order, as that condition is modified from time to time on or after IP completion day,

where that function was, immediately before IP completion day, one of its functions as a regulatory authority designated in accordance with Article 39 of the Gas Directive;”.

(42) In regulation 129—

- (a) for paragraph (2) substitute—

“(2) At the end of the heading insert “: electricity”.”;

- (b) for paragraph (3) substitute—

“(3) In paragraph (1) omit the words “and Article 39(3) of the Gas Directive”.”;

- (c) omit paragraphs (4) and (5).

(43) After regulation 129 insert—

“**129A.** After Article 3A insert—

“Exercise of designated regulatory gas functions etc

3B. The Authority shall ensure that its staff do not—

- (a) seek or take any instructions that might compromise, or might reasonably be seen to compromise, the Authority’s independence in relation to its designated regulatory gas functions; or
- (b) carry out any other activity, or have any financial or other interest, that might compromise, or might reasonably be seen to compromise, the Authority’s independence in relation to those functions.”

(44) For regulation 130, substitute—

“**130.**—(1) Article 6A (report on activities as designated regulatory authority) is amended as follows.

(2) At the end of the heading insert “: electricity”.

(3) In paragraph (2) omit “and Article 41 of the Gas Directive”.”

(45) In regulation 131(3), after “a binding decision” insert “made under the Gas Directive or the Gas Regulation”.

(46) In regulation 132, for “exit day” substitute “IP completion day”.

(47) In regulation 134, for paragraphs (2) to (4) substitute—

“(2) At the end of the heading insert “: electricity”.

(3) In paragraph (1)(b), omit “the Gas Directive,” and “the Gas Regulation”.

(4) In paragraph (2), for “Third Package” substitute “Electricity Directive”.

(5) In paragraph (3), in the definition of “region”—

(a) in sub-paragraph (a), omit “in relation to electricity;”;

(b) omit sub-paragraph (b) and the “and” preceding it.”.

(48) After regulation 134 insert—

“134A. After Article 8A insert—

“Duty on the authority to have regard to the need for consultation and co-operation with regard to other authorities: gas

8B.—(1) When carrying out its designated regulatory gas functions, the Authority shall, to the extent it considers necessary, consider whether there is a need to—

- (a) consult and co-operate with the Great Britain authority or the regulatory authorities of other countries or territories;
- (b) provide the Great Britain authority with information it may require in order to carry out any functions of the Great Britain authority corresponding to the Authority’s designated regulatory gas functions; and
- (c) consult relevant national authorities.

(2) In this Article, “relevant national authorities” has the same meaning as in Article 8A(3).”

(49) Omit regulations 135 and 136.

(50) Omit regulation 139(2).

(51) In regulation 140—

(a) for paragraph (1), substitute—

“(1) In Article 45 (financial penalties), in paragraph (9)(b), after “Electricity Directive or” insert “by or under a provision referring to a provision of”;

(b) in paragraph (2)—

(i) for “exit day”, in each place it occurs, substitute “IP completion day”;

(ii) for “a Community Regulation (within the meaning given in that Article)” substitute “the Gas Regulation (within the meaning of that Order)”.

(52) Omit regulation 141.

(53) In regulation 143, for paragraph (a) substitute—

“(a) at the end of sub-paragraph (b)(i) omit “or”;

(ab) after sub-paragraph (b)(i) insert—

“(ia) any retained EU obligation; or”;

(54) For regulation 144 substitute—

“144. In Article 62 (reasons for decisions), in paragraph (1)(g), after “Northern Ireland” insert “or designated regulatory gas functions”.

(55) For regulation 145 substitute—

“145. In Article 63 (general restrictions on disclosure of information), in paragraph (4) (i), after “Community obligation” insert “or retained EU obligation”.

(56) Omit regulations 146 to 149.

(57) Omit regulation 150 and Schedule 1.

(58) In Schedule 3, omit paragraph 4.

(59) In Schedule 4—

(a) in paragraph 1, for “exit day” substitute “IP completion day”;

(b) in paragraph 2, for “exit day” substitute “IP completion day”;

- (c) in paragraph 3, for “exit day”, in each place it occurs, substitute “IP completion day”;
- (d) in paragraph 7, for “exit day”, in each place it occurs, substitute “IP completion day”;
- (e) in paragraph 9, for “exit day” substitute “IP completion day”.