

Directive (EU) 2019/944 of the European Parliament and of the Council
of 5 June 2019 on common rules for the internal market for electricity
and amending Directive 2012/27/EU (recast) (Text with EEA relevance)

CHAPTER VIII

FINAL PROVISIONS

Article 65

Level playing field

1 Measures that the Member States may take pursuant to this Directive in order to ensure a level playing field shall be compatible with the TFEU, in particular Article 36 thereof, and with Union law.

2 The measures referred to in paragraph 1 shall be proportionate, non-discriminatory and transparent. Those measures may be put into effect only following the notification to and approval by the Commission.

3 The Commission shall act on the notification referred to in paragraph 2 within two months of the receipt of the notification. That period shall begin on the day after receipt of the complete information. In the event that the Commission has not acted within that two-month period, it shall be deemed not to have raised objections to the notified measures.

Article 66

Derogations

1 Member States which can demonstrate that there are substantial problems for the operation of their small connected systems and small isolated systems, may apply to the Commission for derogations from the relevant provisions of Articles 7 and 8 and of Chapters IV, V and VI.

Small isolated systems and France, for the purpose of Corsica, may also apply for a derogation from Articles 4, 5 and 6.

The Commission shall inform the Member States of such applications before taking a decision, taking into account respect for confidentiality.

2 Derogations granted by the Commission as referred to in paragraph 1 shall be limited in time and subject to conditions that aim to increase competition in and the integration of the internal market and to ensure that the derogations do not hamper the transition towards renewable energy, increased flexibility, energy storage, electromobility and demand response.

For outermost regions within the meaning of Article 349 TFEU, that cannot be interconnected with the Union electricity markets, the derogation shall not be limited in time and shall be subject to conditions aimed to ensure that the derogation does not hamper the transition towards renewable energy.

Decisions to grant derogations shall be published in the *Official Journal of the European Union*.

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3 Article 43 shall not apply to Cyprus, Luxembourg and Malta. In addition, Articles 6 and 35 shall not apply to Malta and Articles 44, 45, 46, 47, 48, 49, 50 and 52 shall not apply to Cyprus.

For the purposes of point (b) of Article 43(1), the notion ‘undertaking performing any of the functions of generation or supply’ shall not include final customers who perform any of the functions of generation and/or supply of electricity, either directly or via undertakings over which they exercise control, either individually or jointly, provided that the final customers including their shares of the electricity produced in controlled undertakings are, on an annual average, net consumers of electricity and provided that the economic value of the electricity they sell to third parties is insignificant in proportion to their other business operations.

4 Until 1 January 2025, or until a later date set out in a decision pursuant to paragraph 1 of this Article, Article 5 shall not apply to Cyprus and Corsica.

5 Article 4 shall not apply to Malta until 5 July 2027. That period may be extended for a further additional period, not exceeding eight years. The extension for a further additional period shall be made by means of a decision pursuant to paragraph 1.

Article 67

Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 61(5) and Article 63(9) shall be conferred on the Commission for an indeterminate period of time from 4 July 2019.

3 The delegation of power referred to in Article 61(5) and Article 63(9) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Article 61(5) and Article 63(9) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 68

Committee procedure

- 1 The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
- 2 Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Article 69

Commission monitoring, reviewing and reporting

- 1 The Commission shall monitor and review the implementation of this Directive and shall submit a progress report to the European Parliament and the Council as an annex to the State of the Energy Union Report referred to in Article 35 of Regulation (EU) 2018/1999.
 - 2 By 31 December 2025, the Commission shall review the implementation of this Directive and shall submit a report to the European Parliament and to the Council. If appropriate, the Commission shall submit a legislative proposal together with or after submitting the report.
- The Commission's review shall, in particular, assess whether customers, especially those who are vulnerable or in energy poverty, are adequately protected under this Directive.

Article 70

Amendments to Directive 2012/27/EU

Directive 2012/27/EU is amended as follows:

- (1) Article 9 is amended as follows:
 - (a) the title is replaced by the following:

Metering for natural gas;
 - (b) in paragraph 1, the first subparagraph is replaced by the following:
 1. Member States shall ensure that, in so far as it is technically possible, financially reasonable, and proportionate to the potential energy savings, for natural gas final customers are provided with competitively priced individual meters that accurately reflect the final customer's actual energy consumption and that provide information on actual time of use.;
 - (c) paragraph 2 is amended as follows:
 - (i) the introductory part is replaced by the following:
 2. Where, and to the extent that, Member States implement intelligent metering systems and roll out smart meters for natural gas in accordance with Directive 2009/73/EC.;
 - (ii) points (c) and (d) are deleted;

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- (2) Article 10 is amended as follows:
- (a) the title is replaced by the following:
- Billing information for natural gas;
- (b) in paragraph 1, the first subparagraph is replaced by the following:
1. Where final customers do not have smart meters as referred to in Directive 2009/73/EC, Member States shall ensure, by 31 December 2014, that billing information for natural gas is reliable, accurate and based on actual consumption, in accordance with point 1.1 of Annex VII, where that is technically possible and economically justified.;
- (c) in paragraph 2, the first subparagraph is replaced by the following:
2. Meters installed in accordance with Directive 2009/73/EC shall enable the provision of accurate billing information based on actual consumption. Member States shall ensure that final customers have the possibility of easy access to complementary information on historical consumption allowing detailed self-checks.;
- (3) in Article 11, the title is replaced by the following:
- Cost of access to metering and billing information for natural gas;
- (4) in Article 13, the words ‘Articles 7 to 11’ are replaced by the words ‘Articles 7 to 11a’;
- (5) Article 15 is amended as follows:
- (a) paragraph 5 is amended as follows:
- (i) the first and second subparagraphs are deleted;
- (ii) the third subparagraph is replaced by the following:
- Transmission system operators and distribution system operators shall comply with the requirements set out in Annex XII.;
- (b) paragraph 8 is deleted;
- (6) in Annex VII, the title is replaced by the following:
- Minimum requirements for billing and billing information based on actual consumption of natural gas.

Article 71

Transposition

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2 to 5, Article 6(2) and (3), Article 7(1), point (j) and (l) of Article 8(2), Article 9(2), Article 10(2) to (12), Articles 11 to 24, Articles 26, 28 and 29, Articles 31 to 34 and 36, Article 38(2), Articles 40 and 42, point (d) of Article 46(2), Articles 51 and 54, Articles 57 to 59, Articles 61 to 63, points (1) to (3), (5)(b) and (6) of Article 70 and Annexes I and II by 31 December 2020. They shall immediately communicate the text of those provisions to the Commission.

However, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with:

- a point (5)(a) of Article 70 by 31 December 2019;
- b point (4) of Article 70 by 25 October 2020.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 72

Repeal

Directive 2009/72/EC is repealed with effect from 1 January 2021, without prejudice to the obligations of Member States relating to the time-limit for the transposition into national law and the date of application of the Directive set out in Annex III.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex IV.

Article 73

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 6(1), Article 7 (2) to (5), Article 8(1), points (a) to (i) and (k) of Article 8(2) and Article 8(3) and (4), Article 9(1), (3), (4) and (5), Article 10(2) to (10), Articles 25, 27, 30, 35 and 37, Article 38(1), (3) and (4), Articles 39, 41, 43, 44 and 45, Article 46(1), points (a), (b) and (c) and (e) to (h) of Article 46(2), Article 46(3) to (6), Article 47 to 50, Articles 52, 53, 55, 56, 60, 64 and 65 shall apply from 1 January 2021.

Points (1) to (3), (5)(b) and (6) of Article 70 shall apply from 1 January 2021.

Point (5)(a) of Article 70 shall apply from 1 January 2020.

Point (4) of Article 70 shall apply from 26 October 2020.

Article 74

Addressees

This Directive is addressed to the Member States.