Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) (Text with EEA relevance)

REGULATION (EU) 2019/943 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 5 June 2019

on the internal market for electricity

(recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) Regulation (EC) No 714/2009 of the European Parliament and of the Council[(4)] has been substantially amended several times. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.

(2) The Energy Union aims to provide final customers – household and business – with safe, secure, sustainable, competitive and affordable energy. Historically, the electricity system was dominated by vertically integrated, often publicly owned, monopolies with large centralised nuclear or fossil fuel power plants. The internal market for electricity, which has been progressively implemented since 1999, aims to deliver a real choice for all consumers in the Union new business opportunities and more cross-border trade, so as to achieve efficiency gains, competitive prices and higher standards of service, and to contribute to security of supply and sustainability. The internal market for electricity has increased competition, in particular at the wholesale level, and cross-zonal trade. It remains the foundation of an efficient energy market.

(3) The Union's energy system is in the middle of its most profound change in decades and the electricity market is at the heart of that change. The common goal of decarbonising the energy system creates new opportunities and challenges for market participants. At the same time, technological developments allow for new forms of consumer participation and cross-border cooperation.

(4) This Regulation establishes rules to ensure the functioning of the internal market for electricity and includes requirements related to the development of renewable forms of energy and environmental policy, in particular specific rules for certain types of renewable power-generating facilities, concerning balancing responsibility, dispatch and redispatching, as well as a threshold for CO_2 emissions of new generation capacity where such capacity is subject to temporary measures to ensure the necessary level of resource adequacy, namely, capacity mechanisms.

(5) Electricity from renewable sources from small power-generating facilities should be granted priority dispatch either via a specific priority order in the dispatching methodology or via legal or regulatory requirements for market operators to provide this electricity on the market. Priority dispatch which has been granted in the system operation services under the same economic conditions should be considered to comply with this Regulation. In any case, priority dispatch should be deemed to be compatible with the participation in the electricity market of power-generating facilities using renewable energy sources.

(6) State interventions, often designed in an uncoordinated manner, have led to increasing distortions of the wholesale electricity market, with negative consequences for investments and cross-border trade.

(7) In the past, electricity customers were purely passive, often buying electricity at regulated prices which had no direct relation to the market. In the future, customers need to be enabled to fully participate in the market on equal footing with other market participants and need to be empowered to manage their energy consumption. To integrate the growing share of renewable energy, the future electricity system should make use of all available sources of flexibility, particularly demand side solutions and energy storage, and should make use of digitalisation through the integration of innovative technologies with the electricity system. To achieve effective decarbonisation at the lowest cost, the future electricity system also needs to encourage energy efficiency. The completion of the internal energy market through the effective integration of renewable energy can drive investments in the long term and can contribute to delivering the objectives of the Energy Union and the 2030 climate and energy framework, as set out in the Commission communication of 22 January 2014 entitled ‘A policy framework for climate and energy in the period from 2020 to 2030’, and endorsed in the conclusions adopted by the European Council at its meeting on 23 and 24 October 2014.

(8) More market integration and the change towards a more volatile electricity production requires increased efforts to coordinate national energy policies with neighbours and to use the opportunities of cross-border electricity trade.

(9) Regulatory frameworks have developed, allowing electricity to be traded across the Union. That development has been supported by the adoption of several network codes and guidelines for the integration of the electricity markets. Those network codes and guidelines contain provisions on market rules, system operation and network connection. To ensure full transparency and increase legal certainty, the main principles of market functioning and capacity allocation in the balancing, intraday, day-ahead and

forward market timeframes should also be adopted pursuant to the ordinary legislative procedure and incorporated in a Union legislative single act.

(10) Article 13 of Commission Regulation (EU) 2017/2195[(5)] establishes a process whereby transmission system operators are able to delegate all or part of their tasks to a third party. The delegating transmission system operators should remain responsible for ensuring compliance with this Regulation. Moreover, Member States should be able to assign tasks and obligations to a third party. Such assignment should be limited to tasks and obligations carried out at national level, such as imbalance settlement. The limitations on such assignment should not lead to unnecessary changes to existing national arrangements. However, transmission system operators should remain responsible for the tasks entrusted to them under Article 40 of Directive (EU) 2019/944 of the European Parliament and of the Council[(6)].

(11) With regard to balancing markets, efficient and non-distortive price formation in the procurement of balancing capacity and balancing energy requires that balancing capacity contracts do not set the price for balancing energy. This is without prejudice for the dispatching systems using an integrated scheduling process in accordance with Regulation (EU) 2017/2195.

(12) Articles 18, 30 and 32 of Regulation (EU) 2017/2195 establish that the pricing method for both standard and specific products for balancing energy should create positive incentives for market participants in keeping their own balance or helping to restore the system balance in their imbalance price area, thereby reducing system imbalances and costs to society. Such pricing approaches should strive for the economically efficient use of demand response and other balancing resources, subject to operational security limits.

(13) The integration of balancing energy markets should facilitate the efficient functioning of the intraday market in order to provide the possibility for market participants to balance themselves as closely as possible to real time, enabled by the balancing energy gate closure times provided for in Article 24 of Regulation (EU) 2017/2195. Only the imbalances remaining after the end of the intraday market should be balanced by transmission system operators in the balancing market. Article 53 of Regulation (EU) 2017/2195 also provides for the harmonisation of the imbalance settlement period at 15 minutes in the Union. That harmonisation is intended to support intraday trading and foster the development of a number of trading products with the same delivery windows.

(14) In order to enable transmission system operators to procure and use balancing capacity in an efficient, economic and market-based manner, there is a need to foster market integration. In that regard, Title IV of Regulation (EU) 2017/2195 establishes three methodologies through which transmission system operators are entitled to allocate cross-zonal capacity for the exchange of balancing capacity and the sharing of reserves, when supported on the basis of a cost-benefit analysis: the co-optimisation process, the market-based allocation process and the allocation based on an economic efficiency analysis. The co-optimisation allocation process is to be performed on a day-ahead basis. By contrast, it is possible to perform the market-based allocation process where

the contracting is carried out not more than one week in advance of the provision of the balancing capacity and to perform the allocation based on an economic efficiency analysis where the contracting is done more than one week in advance of the provision of the balancing capacity, provided that the volumes allocated are limited and that an assessment is carried out annually. Once a methodology for the process of allocating cross-zonal capacity is approved by the relevant regulatory authorities, early application of that methodology by two or more transmission system operators could take place to allow them to gain experience and to allow for the smooth application of that methodology by more transmission system operators in the future. The application of such methodologies should nevertheless be harmonised by all transmission system operators in order to foster market integration.

(15) Title V of Regulation (EU) 2017/2195 established that the general objective of imbalance settlement is to ensure that balance responsible parties keep their own balance or help restore the system balance in an efficient way and to provide incentives to market participants for keeping or helping to restore the system balance. To make balancing markets and the overall energy system fit for the integration of the increasing share of variable renewable energy, imbalance prices should reflect the real-time value of energy. All market participants should be financially responsible for the imbalances they cause in the system, representing the difference between the allocated volume and the final position in the market. For demand response aggregators, the allocated volume consists of the volume of energy physically activated by the participating customers' load, based on a defined measurement and baseline methodology.

(16) Commission Regulation (EU) 2015/1222[(7)] sets out detailed guidelines on cross-zonal capacity allocation and congestion management in the day-ahead and intraday markets, including the requirements for the establishment of common methodologies for determining the volumes of capacity simultaneously available between bidding zones, criteria to assess efficiency and a review process for defining bidding zones. Articles 32 and 34 of Regulation (EU) 2015/1222 set out rules on review of bidding zone configuration, Articles 41 and 54 thereof set out harmonised limits on maximum and minimum clearing prices for day-ahead and intraday timeframes, Article 59 thereof sets out rules on intraday cross-zonal gate closure times, whereas Article 74 thereof sets out rules on redispatching and countertrading cost sharing methodologies.

(17) Commission Regulation (EU) 2016/1719[(8)] sets out detailed rules on cross-zonal capacity allocation in the forward markets, on the establishment of a common methodology to determine long-term cross-zonal capacity, on the establishment of a single allocation platform at European level offering long-term transmission rights, and on the possibility to return long-term transmission rights for subsequent forward capacity allocation or to transfer long-term transmission rights between market participants. Article 30 of Regulation (EU) 2016/1719 sets out rules on forward hedging products.

(18) Commission Regulation (EU) 2016/631[(9)] sets out the requirements for grid connection of power-generating facilities to the interconnected system, in particular with respect to synchronous power-generating modules, power park modules and offshore power

park modules. Those requirements help to ensure fair conditions of competition in the internal electricity market, to ensure system security and the integration of electricity from renewable sources, and to facilitate Union-wide trade in electricity. Articles 66 and 67 of Regulation (EU) 2016/631 set out rules for emerging technologies in electricity generation.

(19) Bidding zones reflecting supply and demand distribution are a cornerstone of market-based electricity trading and are a prerequisite for reaching the full potential of capacity allocation methods including the flow-based approach. Bidding zones therefore should be defined in a manner to ensure market liquidity, efficient congestion management and overall market efficiency. When a review of an existing bidding zone configuration is launched by a single regulatory authority or transmission system operator with the approval of its competent regulatory authority, for the bidding zones inside the transmission system operator's control area, if the bidding zone configuration has negligible impact on neighbouring transmission system operators' control areas, including interconnectors, and the review of bidding zone configuration is necessary to improve efficiency, to maximise cross-border trading opportunities or to maintain operational security, the transmission system operator in the relevant control area and the competent regulatory authority should be, respectively, the only transmission system operator and the only regulatory authority participating in the review. The relevant transmission system operator and the competent regulatory authority should give the neighbouring transmission system operators prior notice of the review and the results of the review should be published. It should be possible to launch a regional bidding zone review following the technical report on congestion in line with Article 14 of this Regulation or in accordance with existing procedures laid down in Regulation (EU) 2015/1222.

(20) When regional coordination centres carry out a capacity calculation, they should maximise capacity considering non-costly remedial actions and respecting the operational security limits of transmission system operators in the Capacity Calculation Region. Where the calculation does not result in capacity equal to or above the minimum capacities set out in this Regulation, regional coordination centres should consider all available costly remedial actions to further increase capacity up to the minimum capacities, including redispatching potential within and between the capacity calculation regions, while respecting the operational security limits of transmission system operators of the Capacity Calculation Regions. Transmission system operators should report accurately and transparently on all aspects of capacity calculation in accordance with this Regulation and should ensure that all information sent to regional coordination centres is accurate and fit for purpose.

(21) When performing capacity calculation, regional coordination centres should calculate cross-zonal capacities using data from transmission system operators which respects the operational security limits of the transmission system operators' respective control areas. Transmission system operators should be able to deviate from coordinated capacity calculation where its implementation would result in a violation of the operational security limits of network elements in their control area. Those deviations should be carefully monitored and transparently reported to prevent abuse and ensure

that the volume of interconnection capacity to be made available to market participants is not limited in order to solve congestion inside a bidding zone. Where an action plan is in place, the action plan should take account of deviations and address their cause.

(22) Core market principles should set out that electricity prices are to be determined through demand and supply. Those prices should indicate when electricity is needed, thereby providing market-based incentives for investments into flexibility sources such as flexible generation, interconnection, demand response or energy storage.

(23) While decarbonisation of the electricity sector, with energy from renewable sources becoming a major part of the market, is one of the goals of the Energy Union, it is crucial that the market removes existing barriers to cross-border trade and encourages investments into supporting infrastructure, for example, more flexible generation, interconnection, demand response and energy storage. To support this shift to variable and distributed generation, and to ensure that energy market principles are the basis for the Union's electricity markets of the future, a renewed focus on short-term markets and scarcity pricing is essential.

(24) Short-term markets improve liquidity and competition by enabling more resources to participate fully in the market, especially those resources that are more flexible. Effective scarcity pricing will encourage market participants to react to market signals and to be available when the market most needs them and ensures that they can recover their costs in the wholesale market. It is therefore critical to ensure that administrative and implicit price caps are removed in order to allow for scarcity pricing. When fully embedded in the market structure, short-term markets and scarcity pricing contribute to the removal of other market distortive measures, such as capacity mechanisms, in order to ensure security of supply. At the same time, scarcity pricing without price caps on the wholesale market should not jeopardize the possibility of offering reliable and stable prices to final customers, in particular household customers, small and medium-sized enterprises (SMEs) and industrial customers.

(25) Without prejudice to Articles 107, 108 and 109 of the Treaty on the Functioning of the European Union (TFEU), derogations from fundamental market principles such as balancing responsibility, market-based dispatch, or redispatch reduce flexibility signals and act as barriers to the development of solutions such as energy storage, demand response or aggregation. While derogations are still necessary to avoid an unnecessary administrative burden to certain market participants, in particular household customers and SMEs, broad derogations covering entire technologies are not consistent with the aim of achieving efficient market-based decarbonisation processes and should thus be replaced by more targeted measures.

(26) A precondition for effective competition in the internal market for electricity is non-discriminatory, transparent and adequate charges for network use including interconnecting lines in the transmission system.

(27) Uncoordinated curtailments of interconnector capacities increasingly limit the exchange of electricity between Member States and have become a serious obstacle to the development of a functioning internal market for electricity. The maximum level of capacity of interconnectors and the critical network elements should therefore

be made available, complying with the safety standards of secure network operation including respecting the security standard for contingencies (N-1). However, there are some limitations to setting the capacity level in a meshed grid. Clear minimum levels of available capacity for cross-zonal trade need to be put in place in order to reduce the effects of loop flows and internal congestions on cross-zonal trade and to give a predictable capacity value for market participants. Where the flow-based approach is used, that minimum capacity should determine the minimum share of the capacity of a cross-zonal or an internal critical network element respecting operational security limits to be used as an input for coordinated capacity calculation under Regulation (EU) 2015/1222, taking into account contingencies. The total remaining share of capacity may be used for reliability margins, loop flows and internal flows. Furthermore, in the case of foreseeable problems for ensuring grid security, derogations should be possible for a limited transitional phase. Such derogations should be accompanied by a methodology and projects providing for a long-term solution.

(28) The transmission capacity to which the 70 % minimum capacity criterion shall apply in the net transmission capacity (NTC) approach is the maximum transmission of active power which respects operational security limits and takes into account contingencies. The coordinated calculation of this capacity also takes into account that electricity flows are distributed unevenly between individual components and is not just adding capacities of interconnecting lines. This capacity does not take into account the reliability margin, loop flows or internal flows which are taken into account within the remaining 30 %.

(29) It is important to avoid distortion of competition resulting from the differing safety, operational and planning standards used by transmission system operators in Member States. Moreover, there should be transparency for market participants concerning available transfer capacities and the security, planning and operational standards that affect the available transfer capacities.

(30) To efficiently steer necessary investments, prices also need to provide signals where electricity is most needed. In a zonal electricity system, correct locational signals require a coherent, objective and reliable determination of bidding zones via a transparent process. In order to ensure efficient operation and planning of the Union electricity network and to provide effective price signals for new generation capacity, demand response and transmission infrastructure, bidding zones should reflect structural congestion. In particular, cross-zonal capacity should not be reduced in order to resolve internal congestion.

(31) To reflect the divergent principles of optimising bidding zones without jeopardising liquid markets and grid investments two options should be provided for in order to address congestion. Member States should be able to choose between a reconfiguration of their bidding zone or measures such as grid reinforcement and grid optimisation. The starting point for such a decision should be the identification of long-term structural congestions by the transmission system operator or operators of a Member State, by a report by the European Network of Transmission System Operators for Electricity (the ‘ENTSO for Electricity’) on congestion or by a bidding zone review. Member States

should first try to find a common solution on how to best address congestion. In the course of doing so Member States might adopt multinational or national action plans to address congestion. For Member States which adopt an action plan to address congestion, a phase-in period in the form of a linear trajectory for the opening of interconnectors should apply. At the end of the implementation of such an action plan, Member States should have a possibility to choose whether to opt for a reconfiguration of the bidding zone(s) or whether to opt for addressing remaining congestion through remedial actions for which they bear the costs. In the latter case their bidding zone should not be reconfigured against the will of that Member State, provided that the minimum capacity is reached. The minimum level of capacity that should be used in coordinated capacity calculation should be a percentage of the capacity of a critical network element, as defined following the selection process under Regulation (EU) 2015/1222, after, or, in the case of a flow-based approach, while, respecting the operational security limits in contingency situations. A Commission decision on the configuration of a bidding zone should be possible as a measure of last resort and should only amend the configuration of a bidding zone in those Member States which have opted to split the bidding zone or which have not reached the minimum level of the capacity.

(32) Efficient decarbonisation of the electricity system via market integration requires systematically abolishing barriers to cross-border trade to overcome market fragmentation and to allow Union energy customers to fully benefit from the advantages of integrated electricity markets and competition.

(33) This Regulation should lay down basic principles with regard to tarification and capacity allocation, while providing for the adoption of guidelines detailing further relevant principles and methodologies, in order to allow rapid adaptation to changed circumstances.

(34) The management of congestion problems should provide correct economic signals to transmission system operators and market participants and should be based on market mechanisms.

(35) In an open, competitive market, transmission system operators should be compensated for costs incurred as a result of hosting cross-border flows of electricity on their networks by the operators of the transmission systems from which cross-border flows originate and the systems where those flows end.

(36) Payments and receipts resulting from compensation between transmission system operators should be taken into account when setting national network tariffs.

(37) The actual amount payable for cross-border access to the system can vary considerably, depending on the transmission system operator involved and as a result of differences in the structure of the tarification systems applied in Member States. A certain degree of harmonisation is therefore necessary in order to avoid distortions of trade.

(38) There should be rules on the use of revenues from congestion-management procedures, unless the specific nature of the interconnector concerned justifies an exemption from those rules.

(39) To provide for a level playing field between all market participants, network tariffs should be applied in a way which does not positively or negatively discriminate between production connected at the distribution level and production connected at the transmission level. Network tariffs should not discriminate against energy storage, and should not create disincentives for participation in demand response or represent an obstacle to improving energy efficiency.

(40) In order to increase transparency and comparability in tariff-setting where binding harmonisation is not seen as adequate, a best practices report on tariff methodologies should be issued by the European Agency for the Cooperation of Energy Regulators ('ACER') established by Regulation (EU) 2019/942 of the European Parliament and of the Council[(10)].

(41) To better ensure optimal investment in the trans-European grid and to better address the challenge where viable interconnection projects cannot be built for lack of prioritisation at national level, the use of congestion rents should be reconsidered and contribute to guarantee availability and maintain or increase interconnection capacities.

(42) In order to ensure optimal management of the electricity transmission network and to allow trading and supplying electricity across borders in the Union, the ENTSO for Electricity, should be established. The tasks of the ENTSO for Electricity should be carried out in accordance with Union's competition rules which remain applicable to the decisions of the ENTSO for Electricity. The tasks of the ENTSO for Electricity should be well-defined and its working method should ensure efficiency and transparency. The network codes prepared by the ENTSO for Electricity are not intended to replace the necessary national network codes for non-cross-border issues. Given that more effective progress may be achieved through an approach at regional level, transmission system operators should set up regional structures within the overall cooperation structure, whilst ensuring that results at regional level are compatible with network codes and non-binding ten-year network development plans at Union level. Member States should promote cooperation and monitor the effectiveness of the network at regional level. Cooperation at regional level should be compatible with progress towards a competitive and efficient internal market for electricity.

(43) The ENTSO for Electricity should carry out a robust medium to long-term European resource adequacy assessment to provide an objective basis for the assessment of adequacy concerns. The resource adequacy concern that capacity mechanisms address should be based on the European resource adequacy assessment. That assessment may be complemented by national assessments.

(44) The methodology for the long-term resource adequacy assessment (from ten-year-ahead to year-ahead) set out in this Regulation has a different purpose than the seasonal adequacy assessments (six months ahead) as set out in Article 9 of Regulation (EU) 2019/941 of the European Parliament and of the Council[(11)]. Medium to long-term assessments are mainly used to identify adequacy concerns and to assess the need for capacity mechanisms whereas seasonal adequacy assessments are used to alert to short-term risks that might occur in the following six months that are likely to result in a significant deterioration of the electricity supply situation. In addition, regional

coordination centres also carry out regional adequacy assessments on electricity transmission system operation. Those are very short-term adequacy assessments (from week-ahead to day-ahead) used in the context of system operation.

(45) Before introducing capacity mechanisms, Member States should assess the regulatory distortions contributing to the related resource adequacy concern. Member States should be required to adopt measures to eliminate the identified distortions, and should adopt a timeline for their implementation. Capacity mechanisms should only be introduced to address the adequacy problems that cannot be solved through the removal of such distortions.

(46) Member States intending to introduce capacity mechanisms should derive resource adequacy targets on the basis of a transparent and verifiable process. Member States should have the freedom to set their own desired level of security of supply.

(47) Pursuant to Article 108 TFEU, the Commission has exclusive competence to assess the compatibility with the internal market of State aid measures which the Member States may put in place. That assessment is to be carried out on the basis of Article 107(3) TFEU and in accordance with the relevant provisions and guidelines which the Commission may adopt to that effect. This Regulation is without prejudice to the Commission's exclusive competence conferred by TFEU.

(48) Capacity mechanisms that are in place should be reviewed in light of this Regulation.

(49) Detailed rules for facilitating effective cross-border participation in capacity mechanisms should be laid down in this Regulation. Transmission system operators should facilitate the cross-border participation of interested producers in capacity mechanisms in other Member States. Therefore, they should calculate capacities up to which cross-border participation would be possible, should enable participation and should check availabilities. Regulatory authorities should enforce the cross-border rules in the Member States.

(50) Capacity mechanisms should not result in overcompensation, while at the same time they should ensure security of supply. In that regard, capacity mechanisms other than strategic reserves should be constructed to ensure that the price paid for availability automatically tends to zero when the level of capacity which would be profitable on the energy market in the absence of a capacity mechanism is expected to be adequate to meet the level of capacity demanded.

(51) To support Member States and regions facing social, industrial and economic challenges due to the energy transition, the Commission has set up a coal and carbon-intensive regions initiative. In that context, the Commission should assist Member States, including with targeted financial support to enable a ‘just transition’ in those regions, where available.

(52) In view of the differences between national energy systems and the technical limitations of existing electricity networks, the best approach to achieving progress in market integration is often at a regional level. Regional cooperation between transmission system operators should thus be strengthened. In order to ensure efficient cooperation, a new regulatory framework should provide for stronger regional governance and

regulatory oversight, including by strengthening ACER's decision-making power with respect to cross-border issues. It is possible that closer cooperation of Member States is also needed in crisis situations, to increase security of supply and to limit market distortions.

(53) Coordination between transmission system operators at regional level has been formalised with the mandatory participation of transmission system operators in regional security coordinators. The regional coordination of transmission system operators should be further developed with an enhanced institutional framework via the establishment of regional coordination centres. The establishment of regional coordination centres should take into account existing or planned regional coordination initiatives and should support the increasingly integrated operation of electricity systems across the Union, thereby ensuring their efficient and secure performance. For that reason, it is necessary to ensure that the coordination of transmission system operators through regional coordination centres takes place across the Union. Where transmission system operators of a given region are not yet coordinated by an existing or a planned regional coordination centre, the transmission system operators in that region should establish or designate a regional coordination centre.

(54) The geographical scope of regional coordination centres should allow them to contribute effectively to the coordination of the operations of transmission system operators across regions and should lead to enhanced system security and market efficiency. Regional coordination centres should have the flexibility to carry out their tasks in the region in the way which is best adapted to the nature of the individual tasks entrusted to them.

(55) Regional coordination centres should carry out tasks where their regionalisation brings added value compared to tasks performed at national level. The tasks of regional coordination centres should cover the tasks carried out by regional security coordinators pursuant to the Commission Regulation (EU) 2017/1485[(12)] as well as additional system operation, market operation and risk preparedness tasks. The tasks carried out by regional coordination centres should not include real-time operation of the electricity system.

(56) In performing their tasks, regional coordination centres should contribute to the achievement of the 2030 and 2050 objectives set out in the climate and energy policy framework.

(57) Regional coordination centres should primarily act in the interest of system and market operation of the region. Hence, regional coordination centres should be entrusted with the powers necessary to coordinate the actions to be taken by transmission system operators of the system operation region for certain functions and with an enhanced advisory role for the remaining functions.

(58) The human, technical, physical and financial resources of regional coordination centres should not exceed what is strictly necessary for the fulfilment of their tasks.

(59) The ENTSO for Electricity should ensure that the activities of regional coordination centres are coordinated across regional boundaries.

(60) In order to increase efficiencies in the electricity distribution networks in the Union and to ensure close cooperation with transmission system operators and the ENTSO for Electricity, an entity of distribution system operators in the Union (EU DSO entity) should be established. The tasks of the EU DSO entity should be well-defined and its working method should ensure efficiency, transparency and representativeness among Union distribution system operators. The EU DSO entity should closely cooperate with the ENTSO for Electricity on the preparation and implementation of the network codes where applicable and should work on providing guidance on the integration inter alia of distributed generation and energy storage in distribution networks or other areas which relate to the management of distribution networks. The EU DSO entity should also take due account of the specificities inherent to distribution systems connected downstream with electricity systems on islands which are not connected with other electricity systems by means of interconnectors.

(61) Increased cooperation and coordination among transmission system operators is required to create network codes for providing and managing effective and transparent access to the transmission networks across borders, and to ensure coordinated and sufficiently forward-looking planning and sound technical evolution of the transmission system in the Union, including the creation of interconnection capacities, with due regard to the environment. Those network codes should be in line with non-binding framework guidelines, which are developed by ACER. ACER should have a role in reviewing, based on matters of fact, draft network codes, including their compliance with those framework guidelines, and it should be enabled to recommend them for adoption by the Commission. ACER should assess proposed amendments to the network codes and it should be enabled to recommend them for adoption by the Commission. Transmission system operators should operate their networks in accordance with those network codes.

(62) Experience with the development and adoption of network codes has shown that it is useful to streamline the development procedure by clarifying that ACER has the right to revise draft electricity network codes before submitting them to the Commission.

(63) To ensure the smooth functioning of the internal market for electricity, provision should be made for procedures which allow the adoption of decisions and guidelines with regard, inter alia, to tarification and capacity allocation by the Commission whilst ensuring the involvement of regulatory authorities in that process, where appropriate through their association at Union level. Regulatory authorities, together with other relevant authorities in the Member States, have an important role to play in contributing to the proper functioning of the internal market for electricity.

(64) All market participants have an interest in the work expected of the ENTSO for Electricity. An effective consultation process is therefore essential and existing structures that are set up to facilitate and streamline the consultation process, such as via regulatory authorities or ACER, should play an important role.

(65) In order to ensure greater transparency regarding the entire electricity transmission network in the Union, the ENTSO for Electricity should draw up, publish and regularly update a non-binding Union-wide ten-year network development plan. Viable

electricity transmission networks and necessary regional interconnections, relevant from a commercial or security of supply point of view, should be included in that network development plan.

(66) Investments in major new infrastructure should be promoted strongly while ensuring the proper functioning of the internal market for electricity. In order to enhance the positive effect of exempted direct current interconnectors on competition and security of supply, market interest during the project-planning phase should be tested and congestion-management rules should be adopted. Where direct current interconnectors are located in the territory of more than one Member State, ACER should handle as a last resort the exemption request in order to take better account of its cross-border implications and to facilitate its administrative handling. Moreover, given the exceptional risk profile of constructing those exempt major infrastructure projects, undertakings with supply and production interests should be able to benefit from a temporary derogation from the full unbundling rules for the projects concerned. Exemptions granted under Regulation (EC) No 1228/2003 of the European Parliament and of the Council[(13)] continue to apply until the scheduled expiry date as decided in the granted exemption decision. Offshore electricity infrastructure with dual functionality (so-called 'offshore hybrid assets') combining transport of offshore wind energy to shore and interconnectors, should also be eligible for exemption such as under the rules applicable to new direct current interconnectors. Where necessary, the regulatory framework should duly consider the specific situation of those assets to overcome barriers to the realisation of societally cost-efficient offshore hybrid assets.

(67) To enhance trust in the market, its participants need to be sure that those engaging in abusive behaviour can be subject to effective, proportionate and dissuasive penalties. The competent authorities should be given the competence to investigate effectively allegations of market abuse. To that end, it is necessary that competent authorities have access to data that provides information on operational decisions made by suppliers. In the electricity market, many relevant decisions are made by the producers, which should keep information in relation to those decisions available to and easily accessible by the competent authorities for a set period. The competent authorities should, furthermore, regularly monitor whether the transmission system operators comply with the rules. Small producers with no real ability to distort the market should be exempt from that obligation.

(68) The Member States and the competent authorities should be required to provide relevant information to the Commission. Such information should be treated confidentially by the Commission. Where necessary, the Commission should have an opportunity to request relevant information directly from undertakings concerned, provided that the competent authorities are informed.

(69) Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.

(70) Member States, the Energy Community Contracting Parties and other third countries which apply this Regulation or are part of the synchronous area of Continental

Europe should closely cooperate on all matters concerning the development of an integrated electricity trading region and should take no measures that endanger the further integration of electricity markets or security of supply of Member States and Contracting Parties.

(71) At the time of the adoption of Regulation (EC) No 714/2009, only few rules for the internal market for electricity existed at Union level. Since then, the Union internal market has become more complex due to the fundamental change the markets are undergoing in particular regarding deployment of variable renewable electricity production. The network codes and guidelines have therefore become extensive and comprehensive and encompass both technical and general issues.

(72) In order to ensure the minimum degree of harmonisation required for effective market functioning, the power to adopt acts in accordance with Article 290 of TFEU should be delegated to the Commission in respect of non-essential elements of certain specific areas which are fundamental for market integration. Those acts should include the adoption and amendment of certain network codes and guidelines where they supplement this Regulation, the regional cooperation of transmission system operators and regulatory authorities, financial compensations between transmission system operators, as well as the application of exemption provisions for new interconnectors. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016[(14)] on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(73) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers in accordance with Article 291 of TFEU should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(15)]. The examination procedure should be used for the adoption of those implementing acts.

(74) Since the objective of this Regulation, namely the provision of a harmonised framework for cross-border exchanges of electricity, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(75) For reasons of coherence and legal certainty, no provision in this Regulation should prevent the application of the derogations emerging from Article 66 of Directive (EU) 2019/944,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter and scope

This Regulation aims to:

(a) F1...

(b) set fundamental principles for well-functioning, integrated electricity markets, which allow all resource providers and electricity customers non-discriminatory market access, empower consumers, ensure competitiveness on the global market as well as demand response, energy storage and energy efficiency, and facilitate aggregation of distributed demand and supply, and enable market and sectoral integration and market-based remuneration of electricity generated from renewable sources;

(c) set fair rules for cross-border exchanges in electricity **[**F2. This involves setting the principles on cross-border transmission charges and the allocation of available capacity of interconnections between the transmission systems of Great Britain and the transmission systems of other countries or territories;**]**

(d) facilitate the emergence of a well-functioning and transparent wholesale market, contributing to a high level of security of electricity supply F3....

Textual Amendments

F1 Art. 1(a) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 1(2)**

F2 Words in Art. 1(c) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 1(3)**

F3 Words in Art. 1(d) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 1(4)**

[F4Article 2

Definitions

In this Regulation—

"active customer" means a final customer, or a group of jointly acting final customers, who consumes or stores electricity generated within its premises located within confined boundaries or, where permitted by the regulatory authority, within other premises, or who sells self-generated electricity or participates in flexibility or energy efficiency schemes, provided that those activities do not constitute its primary commercial or professional activity;

"aggregation" means the function of combining multiple customer loads or generated electricity for sale, purchase or auction in any electricity market;

"ancillary service" means a service necessary for the operation of a transmission or distribution system, including balancing and non-frequency ancillary services, but not including congestion management;

"balance responsible party" means a market participant or its chosen representative responsible for its imbalances in the electricity market;

"balancing" means all actions and processes, in all timelines, through which transmission system operators ensure, in an ongoing manner, maintenance of the system frequency within a predefined stability range and compliance with the amount of reserves needed with respect to the required quality;

"balancing capacity" means a volume of capacity that a balancing service provider has agreed to hold and in respect of which the balancing service provider has agreed to submit bids for a corresponding volume of balancing energy to the transmission system operator for the duration of the contract;

"balancing energy" means energy used by transmission system operators to carry out balancing;

"balancing service provider" means a market participant providing either or both balancing energy and balancing capacity to transmission system operators;

"bidding zone" means the largest geographical area within which market participants are able to exchange energy without capacity allocation;

"capacity allocation" means the attribution of cross-zonal capacity;

"capacity mechanism" means a temporary measure to ensure the achievement of the necessary level of resource adequacy by remunerating resources for their availability, excluding measures relating to ancillary services or congestion management;

"central dispatching model" means a scheduling and dispatching model where the generation schedules and consumption schedules as well as dispatching of power-generating facilities and demand facilities, in reference to dispatchable facilities, are determined by a transmission system operator within an integrated scheduling process;

"the competition authority" means the Competition and Markets Authority;

"congestion" means a situation in which an interconnection linking the Great Britain transmission network with the transmission network of another country or territory cannot accommodate all physical flows resulting from international trade required by market participants, because of a lack of capacity of the interconnectors or the transmission systems concerned;

"control area" means a coherent part of the interconnected system, operated by a single system operator and includes connected physical loads and/or generation units if any;

"countertrading" means a cross-zonal exchange initiated by system operators between two bidding zones to relieve physical congestion;

"cross-zonal capacity" means the capability of the interconnected system to accommodate energy transfer between bidding zones;

"customer" means a wholesale or final customer of electricity;

"delegated operator" means an entity to whom specific tasks or obligations entrusted to a transmission system operator under this Regulation have been delegated by that transmission system operator or have been assigned by the Secretary of State or the regulatory authority;

"demand response" means the change of electricity load by final customers from their normal or current consumption patterns in response to market signals, including in response to time-variable electricity prices or incentive payments, or

in response to the acceptance of the final customer's bid to sell demand reduction or increase at a price in an organised market as defined in point (4) of Article 2 of Commission Implementing Regulation (EU) No 1348/2014, whether alone or through aggregation;

"demonstration project" means a project which demonstrates a technology as a first of its kind in Great Britain and represents a significant innovation that goes well beyond the state of the art;

"distributed generation" means generating installations connected to the distribution system;

"distribution" means the transport of electricity on high-voltage, medium-voltage and low-voltage distribution systems with a view to its delivery to customers but does not include supply;

"distribution system operator" or "DSO" means a person responsible for operating, ensuring the maintenance of and, if necessary, developing the distribution system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of electricity;

"electricity derivative" means a financial instrument specified in point (5), (6) or (7) of Section C of Annex I to Directive 2014/65/EU of the European Parliament and of the Council, where that instrument relates to electricity;

"electricity markets" means markets for electricity, including over-the-counter markets and electricity exchanges, markets for the trading of energy, capacity, balancing and ancillary services in all timeframes, including forward, day-ahead and intraday markets;

"electricity supply contract" means a contract for the supply of electricity, but does not include electricity derivatives;

"energy efficiency" means the ratio of output of performance, service, goods or energy, to input of energy;

"energy storage" means, in relation to the electricity system, deferring the final use of electricity to a moment later than when it was generated, or the conversion of electrical energy into a form of energy which can be stored, the storing of such energy, and the subsequent reconversion of such energy into electrical energy or use as another energy carrier;

"final customer" means a customer purchasing electricity for the customer's own use;

"generation" means the production of electricity;

"generation unit" means a single electricity generator belonging to a production unit;

"high-efficiency cogeneration" means cogeneration which meets the criteria laid down in Annex 2 to Directive 2012/27/EU of the European Parliament and of the Council;

"imbalance price" means the price, be it positive, zero or negative, in each imbalance settlement period for an imbalance in each direction;

"imbalance price area" means the area in which an imbalance price is calculated;

"imbalance settlement period" means the time unit for which the imbalance of the balance responsible parties is calculated;

"interconnected system" means a number of transmission and distribution systems linked together by means of one or more interconnectors;

"interconnector" means a transmission line which crosses or spans a border between Great Britain and another country or territory, and which connects the

national transmission system of Great Britain with the transmission system of that other country or territory;

"interoperability" means, in the context of smart metering, the ability of two or more energy or communication networks, systems, devices, applications or components to interwork to exchange and use information in order to perform required functions;

"the jurisdiction of Great Britain" has the meaning given in section 4(3F)(a) of the Electricity Act 1989;

"market operator" means an entity that provides a service whereby the offers to sell electricity are matched with bids to buy electricity;

"market participant" means a person who buys, sells or generates electricity, who is engaged in aggregation or who is an operator of demand response or energy storage services, including through the placing of orders to trade, in one or more electricity markets, including in balancing energy markets;

"new interconnector" means an interconnector not completed by 4th August 2003;

"non-frequency ancillary service" means a service used by a transmission system operator or distribution system operator for steady state voltage control, fast reactive current injections, inertia for local grid stability, short-circuit current, black start capability and island operation capability;

"power-generating facility" means a facility that converts primary energy into electrical energy and which consists of one or more power-generating modules connected to a network;

"prequalification process" means the process to verify the compliance of a provider of balancing capacity with the requirements set by the transmission system operators;

"priority dispatch" means—

a with regard to the self-dispatch model, the dispatch of power plants on the basis of criteria which are different from the economic order of bids;

b with regard to the central dispatch model, the dispatch of power plants on the basis of criteria which are different from the economic order of bids and from network constraints, giving priority to the dispatch of particular generation technologies;

"producer" means a person generating electricity;

"redispatching" means a measure, including curtailment, that is activated by one or more transmission system operators by altering the generation, load pattern, or both, in order to change physical flows in the electricity system and relieve a physical congestion or otherwise ensure system security;

"the regulatory authority" means the Gas and Electricity Markets Authority;

"renewable energy" means energy from renewable non-fossil fuel sources, namely wind, solar (solar thermal and solar photovoltaic) and geothermal energy, ambient energy, tide, wave and other ocean energy, hydropower, landfill gas, sewage treatment plant gas, and biogas;

"reserve capacity" means the amount of frequency containment reserves, frequency restoration reserves or replacement reserves that needs to be available to the transmission system operator;

"self-dispatch model" means a scheduling and dispatching model where the generation schedules and consumption schedules as well as dispatching of power-

generating facilities and demand facilities are determined by the scheduling agents of those facilities;

"small connected system" means any system that had consumption of less than 3,000 GWh in the year 1996, where more than 5% of annual consumption is obtained through interconnection with other systems;

"small enterprise" means an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed £9 million;

"small isolated system" means any system that had consumption of less than 3,000 GWh in the year 1996, where less than 5% of annual consumption is obtained through interconnection with other systems;

"smart metering system" means an electronic system that is capable of measuring electricity fed into the grid or electricity consumed from the grid, providing more information than a conventional meter, and that is capable of transmitting and receiving data for information, monitoring and control purposes, using a form of electronic communication;

"specific balancing product" means a balancing product which is not a standard balancing product;

"standard balancing product" means a harmonised balancing product defined by all transmission system operators for the exchange of balancing services;

"structural congestion" means congestion in the transmission system that is capable of being unambiguously defined, is predictable, is geographically stable over time, and frequently reoccurs under normal electricity system conditions;

"supply" means the sale, including the resale, of electricity to customers;

"system user" means a person supplying to, or being supplied by, a transmission or distribution system;

"transmission" means the transport of electricity on the extra high-voltage and high-voltage interconnected system with a view to its delivery to final customers or to distributors, but does not include supply;

"transmission system operator" or "TSO" means a person who is designated as an electricity transmission system operator under section 10H of the Electricity Act 1989;

"value of lost load" means an estimation in sterling/MWh, of the maximum electricity price that customers are willing to pay to avoid an outage;

"wholesale customer" means a person who purchases electricity for the purpose of resale inside or outside the system where the person is established.**]**

Textual Amendments

F4 Art. 2 substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 2**

CHAPTER II

GENERAL RULES FOR THE ELECTRICITY MARKET

Article 3

Principles regarding the operation of electricity markets

[F5The Secretary of State, the regulatory authority, transmission system operator, distribution system operator, market operator and delegated operator**]** shall ensure that electricity markets are operated in accordance with the following principles:

(a) prices shall be formed on the basis of demand and supply;

(b) market rules shall encourage free price formation and shall avoid actions which prevent price formation on the basis of demand and supply;

(c) market rules shall facilitate the development of more flexible generation, sustainable low carbon generation, and more flexible demand;

(d) customers shall be enabled to benefit from market opportunities and increased competition on retail markets and shall be empowered to act as market participants in the energy market and the energy transition;

(e) market participation of final customers and small enterprises shall be enabled by aggregation of generation from multiple power-generating facilities or load from multiple demand response facilities to provide joint offers on the electricity market and be jointly operated in the electricity system, in accordance with F6... competition law;

(f) market rules shall enable the decarbonisation of the electricity system and thus the economy, including by enabling the integration of electricity from renewable energy sources and by providing incentives for energy efficiency;

(g) market rules shall deliver appropriate investment incentives for generation, in particular for long-term investments in a decarbonised and sustainable electricity system, energy storage, energy efficiency and demand response to meet market needs, and shall facilitate fair competition thus ensuring security of supply;

(h) F7...

(i) F7...

(j) safe and sustainable generation, energy storage and demand response shall participate on equal footing in the market, under the requirements provided for in **[**F8retained EU**]** law;

(k) all producers shall be directly or indirectly responsible for selling the electricity they generate;

(l) market rules shall allow for the development of demonstration projects into sustainable, secure and low-carbon energy sources, technologies or systems which are to be realised and used to the benefit of society;

(m) market rules shall enable the efficient dispatch of generation assets, energy storage and demand response;

(n) market rules shall allow for entry and exit of electricity generation, energy storage and electricity supply undertakings based on those undertakings' assessment of the economic and financial viability of their operations;

(o) in order to allow market participants to be protected against price volatility risks on a market basis, and mitigate uncertainty on future returns on investment, long-term hedging products shall be tradable on exchanges in a transparent manner and long-term electricity supply contracts shall be negotiable over the counter, subject to compliance with [F9]... competition law;

(p) market rules shall facilitate trade of products across **[**[F10]Great Britain**]** and. regulatory changes shall take into account effects on both short-term and long-term forward and futures markets and products;

(q) market participants shall have a right to obtain access to the transmission networks and distribution networks on objective, transparent and non-discriminatory terms.

Textual Amendments

F5 Words in Art. 3 substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 3(2)**

F6 Word in Art. 3(e) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 3(3)**

F7 Art. 3(h)(i) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 3(4)**

F8 Words in Art. 3(j) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 3(5)**

F9 Word in Art. 3(o) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 3(6)**

F10 Words in Art. 3(p) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 3(7)**

[F11]*Article 4*

Just transition

. . . . . .

Textual Amendments

F11 Art. 4 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 4**

Article 5

Balance responsibility

1 All market participants shall be responsible for the imbalances they cause in the system ('balance responsibility'). To that end, market participants shall either be balance responsible parties or shall contractually delegate their responsibility to a balance responsible party of their choice. Each balance responsible party shall be financially responsible for its imbalances and shall strive to be balanced or shall help the electricity system to be balanced.

2 **[**F12The Secretary of State**]** may provide derogations from balance responsibility only for:

a demonstration projects for innovative technologies, subject to approval by the regulatory authority, provided that those derogations are limited to the time and extent necessary for achieving the demonstration purposes;

b power-generating facilities using renewable energy sources with an installed electricity capacity of less than 400 kW;

c installations benefitting from support approved by the Commission **[**F13before IP completion day**]** under Union State aid rules pursuant to Articles 107, 108 and 109 TFEU **[**F14as those Articles had effect in EU law immediately before IP completion day**]**, and commissioned before 4 July 2019.

[F12The Secretary of State**]** may F15... provide incentives to market participants which are fully or partly exempted from balancing responsibility to accept full balancing responsibility.

3 When **[**F16the Secretary of State**]** provides a derogation in accordance with paragraph 2, it shall ensure that the financial responsibility for imbalances is fulfilled by another market participant.

4 For power-generating facilities commissioned from 1 January 2026, point (b) of paragraph 2 shall apply only to generating installations using renewable energy sources with an installed electricity capacity of less than 200 kW.

Textual Amendments

F12 Words in Art. 5(2) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 5(2)**

F13 Words in Art. 5(2)(c) inserted (31.12.2020) by The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470), reg. 1(2), **Sch. 1 para. 10(2)(a)(i)** (with Sch. 3)

F14 Words in Art. 5(2)(c) inserted (31.12.2020) by The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470), reg. 1(2), **Sch. 1 para. 10(2)(a)(ii)** (with Sch. 3)

F15 Words in Art. 5(2) omitted (31.12.2020) by virtue of The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470), reg. 1(2), **Sch. 1 para. 10(2)(b)** (with Sch. 3)

F16 Words in Art. 5(3) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 5(3)**

Article 6

Balancing market

1 Balancing markets, including prequalification processes, shall be organised in such a way as to:

a ensure effective non-discrimination between market participants taking account of the different technical needs of the electricity system and the different technical capabilities of generation sources, energy storage and demand response;

b ensure that services are defined in a transparent and technologically neutral manner and are procured in a transparent, market-based manner;

c ensure non-discriminatory access to all market participants, individually or through aggregation, including for electricity generated from variable renewable energy sources, demand response and energy storage;

d respect the need to accommodate the increasing share of variable generation, increased demand responsiveness and the advent of new technologies.

2 The price of balancing energy shall not be pre-determined in contracts for balancing capacity. Procurement processes shall be transparent [F17]..., while protecting the confidentiality of commercially sensitive information.

3 Balancing markets shall ensure operational security whilst allowing for maximum use and efficient allocation of cross-zonal capacity across timeframes [F18]....

4 The settlement of balancing energy for standard balancing products and specific balancing products shall be based on marginal pricing (pay-as-cleared) unless **[**[F19]the regulatory authority approves**]** an alternative pricing method on the basis of a joint proposal by all transmission system operators following an analysis demonstrating that that alternative pricing method is more efficient.

Market participants shall be allowed to bid as close to real time as possible, and balancing energy gate closure times shall not be before the intraday cross-zonal gate closure time.

[F20]…

5 The imbalances shall be settled at a price that reflects the real-time value of energy.

6 Each imbalance price area shall be equal to a bidding zone, except in the case of a central dispatching model where an imbalance price area may constitute a part of a bidding zone.

7 The dimensioning of reserve capacity shall be performed by the transmission system operators [F21]....

8 The procurement of balancing capacity shall be performed by the transmission system operator and may be facilitated at a regional level. Reservation of cross-border capacity to that end may be limited. The procurement of balancing capacity shall be market-based and organised in such a way as to be non-discriminatory between market participants in the prequalification process [F22]... whether market participants participate individually or through aggregation.

Procurement of balancing capacity shall be based on a primary market unless and to the extent that the regulatory authority has provided for a derogation to allow the use of other forms of market-based procurement on the grounds of a lack of competition in the

market for balancing services. Derogations from the obligation to base the procurement of balancing capacity on use of primary markets shall be reviewed every three years.

9 The procurement of upward balancing capacity and downward balancing capacity shall be carried out separately, unless the regulatory authority approves a derogation from this principle on the basis that this would result in higher economic efficiency as demonstrated by an evaluation performed by the transmission system operator. Contracts for balancing capacity shall not be concluded more than one day before the provision of the balancing capacity and the contracting period shall be no longer than one day, unless and to the extent that the regulatory authority has approved the earlier contracting or longer contracting periods to ensure the security of supply or to improve economic efficiency.

Where a derogation is granted, for at least 40 % of the standard balancing products and a minimum of 30 % of all products used for balancing capacity, contracts for the balancing capacity shall be concluded for no more than one day before the provision of the balancing capacity and the contracting period shall be no longer than one day. The contracting of the remaining part of the balancing capacity shall be performed for a maximum of one month in advance of the provision of balancing capacity and shall have a maximum contractual period of one month.

10 At the request of the transmission system operator, the regulatory authority may decide to extend the contractual period of the remaining part of balancing capacity referred to in paragraph 9 to a maximum period of twelve months provided that such a decision is limited in time, and the positive effects in terms of lowering of costs for final customers exceed the negative impacts on the market. The request shall include:

a the specific period during which the exemption would apply;

b the specific volume of balancing capacity to which the exemption would apply;

c an analysis of the impact of the exemption on the participation of balancing resources; and

d a justification for the exemption demonstrating that such an exemption would lead to lower costs to final customers.

11 Notwithstanding paragraph 10, from 1 January 2026 contract periods shall not be longer than six months.

12 By 1 January 2028, **[**F23the transmission system operator**]** shall report to the **[**F24regulatory authority**]** on the share of the total capacity covered by contracts with a duration or a procurement period of longer than one day.

13 Transmission system operators or their delegated operators shall publish, as close to real time as possible but with a delay after delivery of no more than 30 minutes, the current system balance of their scheduling areas, the estimated imbalance prices and the estimated balancing energy prices.

14 Transmission system operators may, where standard balancing products are not sufficient to ensure operational security or where some balancing resources cannot participate in the balancing market through standard balancing products, propose, and the regulatory **[**F25authority**]** may approve, derogations from paragraphs 2 and 4 for specific balancing products which are activated locally without exchanging them with other transmission system operators.

Proposals for derogations shall include a description of measures proposed to minimise the use of specific products, subject to economic efficiency, a demonstration that the specific products do not create significant inefficiencies and distortions in the balancing market either inside or outside the scheduling area, as well as, where applicable, the rules

and information for the process for converting the balancing energy bids from specific balancing products into balancing energy bids from standard balancing products.

Textual Amendments

F17 Words in Art. 6(2) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 6(2)**

F18 Words in Art. 6(3) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 6(3)**

F19 Words in Art. 6(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 6(4)(a)**

F20 Words in Art. 6(4) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 6(4)(b)**

F21 Words in Art. 6(7) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 6(5)**

F22 Words in Art. 6(8) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 6(6)**

F23 Words in Art. 6(12) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 6(7)(a)**

F24 Words in Art. 6(12) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 6(7)(b)**

F25 Word in Art. 6(14) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 6(8)**

Article 7

Day-ahead and intraday markets

[F26 1 Transmission system operators must organise the management of the day-ahead and intraday markets. Transmission system operators must cooperate, so far as possible, at a regional level in order to maximise the efficiency and effectiveness of electricity day-ahead and intraday trading. The obligation to cooperate is without prejudice to the application of competition law. In their functions relating to electricity trading, transmission system operators are to be subject to regulatory oversight by the regulatory authority.**]**

2 Day-ahead and intraday markets shall:

a be organised in such a way as to be non-discriminatory;

b maximise the ability of all market participants to manage imbalances;

F27 c . . . . . .

d provide prices that reflect market fundamentals, including the real time value of energy, on which market participants are able to rely when agreeing on longer-term hedging products;

e ensure operational security while allowing for maximum use of transmission capacity;

f be transparent while at the same time protecting the confidentiality of commercially sensitive information and ensuring trading occurs in an anonymous manner; **[**[F28]and**]**

[F29]g . . . . . .

h be organised in such a way as to ensure that all markets participants are able to access the market individually or through aggregation.

Textual Amendments

F26 Art. 7(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 7(2)**

F27 Art. 7(2)(c) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 7(3)(a)**

F28 Word in Art. 7(2)(f) inserted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 7(3)(b)**

F29 Art. 7(2)(g) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 7(3)(c)**

Article 8

Trade on day-ahead and intraday markets

[F30]1 . . . . . .

[F30]2 . . . . . .

[F30]3 . . . . . .

4 By 1 January 2021, the imbalance settlement period shall be 15 minutes in all scheduling areas, unless **[**[F31]the regulatory authority has**]** granted a derogation or an exemption. Derogations may be granted only until 31 December 2024.

From 1 January 2025, the imbalance settlement period shall not exceed 30 minutes where an exemption has been granted by all the regulatory authorities within a synchronous area.

Textual Amendments

F30 Art. 8(1)-(3) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 8(2)**

F31 Words in Art. 8(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 8(3)**

Article 9

Forward markets

1 F32... Transmission system operators shall issue long-term transmission rights or have equivalent measures in place to allow for market participants, including owners of power-generating facilities using renewable energy sources, to hedge price risks across bidding zone borders, unless an assessment of the forward market on the bidding zone borders performed by the **[**F33regulatory authority**]** shows that there are sufficient hedging opportunities in the concerned bidding zones.

2 Long-term transmission rights shall be allocated in a transparent, market based and non-discriminatory manner through **[**F34an**]** allocation platform.

3 Subject to compliance with F35... competition law, market operators shall be free to develop forward hedging products, including long-term forward hedging products, to provide market participants, including owners of power-generating facilities using renewable energy sources, with appropriate possibilities for hedging financial risks against price fluctuations. **[**F36The regulatory authority**]** shall not require that such hedging activity be limited to trades within a F37... bidding zone.

Textual Amendments

F32 Words in Art. 9(1) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 9(2)(a)**

F33 Words in Art. 9(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 9(2)(b)**

F34 Word in Art. 9(2) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 9(3)**

F35 Word in Art. 9(3) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 9(4)(a)**

F36 Words in Art. 9(3) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 9(4)(b)(i)**

F37 Words in Art. 9(3) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 9(4)(b)(ii)**

Article 10

Technical bidding limits

1 There shall be neither a maximum nor a minimum limit to the wholesale electricity price. This provision shall apply, inter alia, to bidding and clearing in all timeframes and shall include balancing energy and imbalance prices F38....

F39 2 . . . . . .

3 Transmission system operators shall not take any measures for the purpose of changing wholesale prices.

4 **[**[F40]The regulatory authority**]** shall identify policies and measures applied within their territory that could contribute to indirectly restricting wholesale price formation, including limiting bids relating to the activation of balancing energy, capacity mechanisms, measures by the transmission system operators, measures intended to challenge market outcomes, or to prevent the abuse of dominant positions or inefficiently defined bidding zones.

5 Where **[**[F41]the regulatory authority**]** has identified a policy or measure which could serve to restrict wholesale price formation it shall take all appropriate actions to eliminate or, if not possible, to mitigate the impact of that policy or measure on bidding behaviour. [F42]...

Textual Amendments

F38 Words in Art. 10(1) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 10(2)**

F39 Art. 10(2) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 10(3)**

F40 Words in Art. 10(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 10(4)**

F41 Words in Art. 10(5) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 10(5)(a)**

F42 Words in Art. 10(5) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 10(5)(b)**

Article 11

Value of lost load

[[F43]1 Where required for the purpose of setting a reliability standard in accordance with Article 25, the relevant authority must determine a single estimate of the value of lost load for Great Britain. That estimate must be made publicly available. The relevant authority may determine different estimates per bidding zone if there is more than one bidding zone in Great Britain. Where a bidding zone consists of more than one control area, the relevant authority must determine a single estimate of the value of lost load for that bidding zone.**]**

2 **[**[F44]The relevant authority**]** shall update **[**[F45]its**]** estimate of the value of lost load at least every five years, or earlier where **[**[F46]it**][**[F47]observes**]** a significant change.

[[F48]3 In this Article, "relevant authority" means the Secretary of State or the regulatory authority.**]**

Textual Amendments

F43 Art. 11(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 11(2)**

F44 Words in Art. 11(2) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 11(3)(a)**

F45 Word in Art. 11(2) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 11(3)(b)**

F46 Word in Art. 11(2) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 11(3)(c)**

F47 Word in Art. 11(2) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 11(3)(d)**

F48 Art. 11(3) inserted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 11(4)**

Article 12

Dispatching of generation and demand response

1 The dispatching of power-generating facilities and demand response shall be non-discriminatory, transparent and, unless otherwise provided under paragraphs 2 to 6, market based.

2 F49... **[**F50the regulatory authority**]** shall ensure that when dispatching electricity generating installations, system operators shall give priority to generating installations using renewable energy sources to the extent permitted by the secure operation of the national electricity system, based on transparent and non-discriminatory criteria and where such power-generating facilities are either:

a power-generating facilities that use renewable energy sources and have an installed electricity capacity of less than 400 kW; or

b demonstration projects for innovative technologies, subject to approval by the regulatory authority, provided that such priority is limited to the time and extent necessary for achieving the demonstration purposes.

3 **[**F51The regulatory authority**]** may decide not to apply priority dispatch to power-generating facilities as referred to in point (a) of paragraph 2 with a start of operation at least six months after that decision, or to apply a lower minimum capacity than that set out under point (a) of paragraph 2, provided that:

a it has well-functioning intraday and other wholesale and balancing markets and that those markets are fully accessible to all market participants in accordance with this Regulation;

b redispatching rules and congestion management are transparent to all market participants;

F52c . . . . . .

F52d . . . . . .

F52e . . . . . .

Any derogation shall avoid retroactive changes that affect generating installations already benefiting from priority dispatch, notwithstanding any agreement between **[**F53the regulatory authority**]** and the operator of a generating installation on a voluntary basis.

F54... **[**F55the regulatory authority**]** may provide incentives to installations eligible for priority dispatch to voluntarily give up priority dispatch.

4 F56... **[**F57the regulatory authority**]** may provide for priority dispatch for electricity generated in power-generating facilities using high-efficiency cogeneration with an installed electricity capacity of less than 400 kW.

5 For power-generating facilities commissioned as from 1 January 2026, point (a) of paragraph 2 shall apply only to power-generating facilities that use renewable energy sources and have an installed electricity capacity of less than 200 kW.

6 Without prejudice to contracts concluded before 4 July 2019, power-generating facilities that use renewable energy sources or high-efficiency cogeneration and were commissioned before 4 July 2019 and, when commissioned, were subject to priority dispatch under Article 15(5) of Directive 2012/27/EU or Article 16(2) of Directive 2009/28/EC of the European Parliament and of the Council[16] shall continue to benefit from priority dispatch. Priority dispatch shall no longer apply to such power-generating facilities from the date on which the power-generating facility becomes subject to significant modifications, which shall be deemed to be the case at least where a new connection agreement is required or where the generation capacity of the power-generating facility is increased.

7 Priority dispatch shall not endanger the secure operation of the electricity system F58....

Textual Amendments

F49 Words in Art. 12(2) omitted (31.12.2020) by virtue of The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470), reg. 1(2), **Sch. 1 para. 10(3)(a)** (with Sch. 3)

F50 Words in Art. 12(2) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 12(2)**

F51 Words in Art. 12(3) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 12(3)(a)**

F52 Art. 12(3)(c)-(e) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 12(3)(b)**

F53 Words in Art. 12(3) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 12(3)(c)**

F54 Words in Art. 12(3) omitted (31.12.2020) by virtue of The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470), reg. 1(2), **Sch. 1 para. 10(3)(b)** (with Sch. 3)

F55 Words in Art. 12(3) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 12(3)(d)**

F56 Words in Art. 12(4) omitted (31.12.2020) by virtue of The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470), reg. 1(2), **Sch. 1 para. 10(3)(c)** (with Sch. 3)

F57 Words in Art. 12(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 12(4)**

F58 Words in Art. 12(7) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 12(5)**

Article 13

Redispatching

1 The redispatching of generation and redispatching of demand response shall be based on objective, transparent and non-discriminatory criteria. It shall be open to all generation technologies, all energy storage and all demand response [F59]....

2 The resources that are redispatched shall be selected from among generating facilities, energy storage or demand response using market-based mechanisms and shall be financially compensated. Balancing energy bids used for redispatching shall not set the balancing energy price.

3 Non-market-based redispatching of generation, energy storage and demand response may only be used where:

a no market-based alternative is available;

b all available market-based resources have been used; **[**[F60]or**]**

c the number of available power generating, energy storage or demand response facilities is too low to ensure effective competition in the area where suitable facilities for the provision of the service are located [F61]...

[F62]d . . . . . .

4 The transmission system operators and distribution system operators shall report at least annually to the **[**[F63]regulatory authority**]**, on:

a the level of development and effectiveness of market-based redispatching mechanisms for power generating, energy storage and demand response facilities;

b the reasons, volumes in MWh and type of generation source subject to redispatching;

c the measures taken to reduce the need for the downward redispatching of generating installations using renewable energy sources or high-efficiency cogeneration in the future including investments in digitalisation of the grid infrastructure and in services that increase flexibility.

[F64]
…

5 Subject to requirements relating to the maintenance of the reliability and safety of the grid, based on transparent and non-discriminatory criteria established by the regulatory **[**[F65]authority**]**, transmission system operators and distribution system operators shall:

a guarantee the capability of transmission networks and distribution networks to transmit electricity produced from renewable energy sources or high-efficiency cogeneration with minimum possible redispatching, which shall not prevent network planning from taking into account limited redispatching where the transmission system operator or distribution system operator is able to demonstrate in a transparent way that doing so is more economically efficient and does not exceed 5 % of the annual generated electricity in installations which use renewable energy sources and which are directly connected to their respective grid, unless otherwise provided by **[**[F66]the regulatory authority**]** in which electricity from power-generating facilities using renewable energy sources or high-efficiency cogeneration represents more than 50 % of the annual gross final consumption of electricity;

b take appropriate grid-related and market-related operational measures in order to minimise the downward redispatching of electricity produced from renewable energy sources or from high-efficiency cogeneration;

c ensure that their networks are sufficiently flexible so that they are able to manage them.

6 Where non-market-based downward redispatching is used, the following principles shall apply:

a power-generating facilities using renewable energy sources shall only be subject to downward redispatching if no other alternative exists or if other solutions would result in significantly disproportionate costs or severe risks to network security;

b electricity generated in a high-efficiency cogeneration process shall only be subject to downward redispatching if, other than downward redispatching of power-generating facilities using renewable energy sources, no other alternative exists or if other solutions would result in disproportionate costs or severe risks to network security;

c self-generated electricity from generating installations using renewable energy sources or high-efficiency cogeneration which is not fed into the transmission or distribution network shall not be subject to downward redispatching unless no other solution would resolve network security issues;

d downward redispatching under points (a), (b) and (c)shall be duly and transparently justified. The justification shall be included in the report under **[**F67paragraph 4**]**.

7 Where non-market based redispatching is used, it shall be subject to financial compensation by the system operator requesting the redispatching to the operator of the redispatched generation, energy storage or demand response facility except in the case of producers that have accepted a connection agreement under which there is no guarantee of firm delivery of energy. Such financial compensation shall be at least equal to the higher of the following elements or a combination of both if applying only the higher would lead to an unjustifiably low or an unjustifiably high compensation:

a additional operating cost caused by the redispatching, such as additional fuel costs in the case of upward redispatching, or backup heat provision in the case of downward redispatching of power-generating facilities using high-efficiency cogeneration;

b net revenues from the sale of electricity on the day-ahead market that the power-generating, energy storage or demand response facility would have generated without the redispatching request; where financial support is granted to power-generating, energy storage or demand response facilities based on the electricity volume generated or consumed, financial support that would have been received without the redispatching request shall be deemed to be part of the net revenues.

Textual Amendments

F59 Words in Art. 13(1) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 13(2)**

F60 Word in Art. 13(3)(b) inserted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 13(3)(a)**

F61 Word in Art. 13(3)(c) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 13(3)(b)**

F62 Art. 13(3)(d) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 13(3)(c)**

F63 Words in Art. 13(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 13(4)(a)**

F64 Words in Art. 13(4) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 13(4)(b)**

F65 Word in Art. 13(5) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 13(5)(a)**

F66 Words in Art. 13(5)(a) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 13(5)(b)**

F67 Words in Art. 13(6)(d) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 13(6)**

CHAPTER III

NETWORK ACCESS AND CONGESTION MANAGEMENT

SECTION 1

Capacity Allocation

F68 Article 14

Bidding zone review

. . . . . .

Textual Amendments

F68 Art. 14 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 14**

F69 Article 15

Action plans

. . . . . .

Textual Amendments

F69 Art. 15 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 14**

Article 16

General principles of capacity allocation and congestion management

1 Network congestion problems shall be addressed with non-discriminatory market-based solutions which give efficient economic signals to the market participants and transmission system operators involved. Network congestion problems shall be solved by means of non-transaction-based methods, namely methods that do not involve a selection between the contracts of individual market participants. When taking operational measures to ensure that its transmission system remains in the normal state, the transmission system operator **[**F70must consider, so far as possible,**]** the effect of those measures on neighbouring control areas and coordinate such measures with other affected transmission system operators F71....

2 Transaction curtailment procedures shall be used only in emergency situations, namely where the transmission system operator must act in an expeditious manner and redispatching or countertrading is not possible. Any such procedure shall be applied in a non-discriminatory manner. Except in cases of force majeure, market participants that have been allocated capacity shall be compensated for any such curtailment.

F723 . . . . . .

4 The maximum level of capacity of the interconnections and the transmission networks affected by cross-border capacity shall be made available to market participants complying with the safety standards of secure network operation. Counter-trading and redispatch, including cross-border redispatch, shall be used to maximise available capacities F73....

5 Capacity shall be allocated by means of explicit capacity auctions or implicit auctions including both capacity and energy. Both methods may coexist on the same interconnection. F74...

6 In the case of congestion, the valid highest value bids for network capacity, whether implicit or explicit, offering the highest value for the scarce transmission capacity in a given timeframe, shall be successful. Other than in the case of new interconnectors which benefit from an exemption under Article 7 of Regulation (EC) No 1228/2003, Article 17 of Regulation (EC) No 714/2009 or Article 63 of this Regulation, establishing reserve prices in capacity-allocation methods shall be prohibited.

7 Capacity shall be freely tradable on a secondary basis, provided that the transmission system operator is informed sufficiently in advance. Where a transmission system operator refuses any secondary trade (transaction), this shall be clearly and transparently communicated and explained to all the market participants by that transmission system operator and notified to the regulatory authority.

F758 . . . . . .

9 F76...

F76...

Where a derogation is granted, the F77... transmission system operators shall develop and publish a methodology and projects that shall provide a long-term solution to the issue that the derogation seeks to address. The derogation shall expire when the time limit for the derogation is reached or when the solution is applied, whichever is earlier.

10 Market participants shall inform the transmission system operators concerned within a reasonable period in advance of the relevant operational period whether they intend to use

allocated capacity. Any allocated capacity that is not going to be used shall be made available again to the market, in an open, transparent and non-discriminatory manner.

11 As far as technically possible, transmission system operators shall net the capacity requirements of any power flows in opposite directions over the congested interconnection line in order to use that line to its maximum capacity. Having full regard to network security, transactions that relieve the congestion shall not be refused.

12 The financial consequences of a failure to honour obligations associated with the allocation of capacity shall be attributed to the transmission system operators [F78]... who are responsible for such a failure. Where market participants fail to use the capacity that they have committed to use, or, in the case of explicitly auctioned capacity, fail to trade capacity on a secondary basis or give the capacity back in due time, those market participants shall lose the rights to such capacity and shall pay a cost-reflective charge. Any cost-reflective charges for the failure to use capacity shall be justified and proportionate. If a transmission system operator does not fulfil its obligation of providing firm transmission capacity, it shall be liable to compensate the market participant for the loss of capacity rights. Consequential losses shall not be taken into account for that purpose. The key concepts and methods for the determination of liabilities that accrue upon failure to honour obligations shall be set out in advance in respect of the financial consequences, and shall be subject to review by the [F79]... regulatory authority.

13 When allocating costs of remedial actions between transmission system operators, **[**[F80]the regulatory authority**]** shall analyse to what extent flows resulting from transactions internal to bidding zones contribute to [F81]... observed **[**[F82]congestion**]**, and allocate the costs based on the contribution to the congestion to the transmission system operators of the bidding zones creating such flows except for costs induced by flows resulting from transactions internal to bidding zones that are below the level that could be expected without structural congestion in a bidding zone.

[F83]...

Textual Amendments

F70 Words in Art. 16(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(2)(a)**

F71 Words in Art. 16(1) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(2)(b)**

F72 Art. 16(3) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(3)**

F73 Words in Art. 16(4) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(4)**

F74 Words in Art. 16(5) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(5)**

F75 Art. 16(8) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(6)**

F76 Words in Art. 16(9) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(7)(a)**

F77 Word in Art. 16(9) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(7)(b)**

F78 Words in Art. 16(12) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(8)(a)**

F79 Word in Art. 16(12) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(8)(b)**

F80 Words in Art. 16(13) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(9)(a)(i)**

F81 Words in Art. 16(13) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(9)(a)(ii)**

F82 Word in Art. 16(13) inserted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(9)(a)(iii)**

F83 Words in Art. 16(13) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 15(9)(b)**

F84 Article 17

Allocation of cross-zonal capacity across timeframes

. . . . . .

Textual Amendments

F84 Art. 17 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 16**

SECTION 2

Network charges and congestion income

Article 18

Charges for access to networks, use of networks and reinforcement

1 Charges applied by network operators for access to networks, including charges for connection to the networks, charges for use of networks, and, where applicable, charges for related network reinforcements, shall be cost-reflective, transparent, take into account the need for network security and flexibility and reflect actual costs incurred insofar as they correspond to those of an efficient and structurally comparable network operator and are applied in a non-discriminatory manner. Those charges shall not include unrelated costs supporting unrelated policy objectives.

Without prejudice to Article 15(1) and (6) of Directive 2012/27/EU and the criteria in Annex XI to that Directive the method used to determine the network charges shall neutrally support overall system efficiency over the long run through price signals to customers and producers and in particular be applied in a way which does not discriminate positively or negatively between production connected at the distribution level and production connected at the transmission level. The network charges shall not discriminate either positively or negatively against energy storage or aggregation and shall not create disincentives for self-generation, self-consumption or for participation in demand response. Without prejudice to paragraph 3 of this Article, those charges shall not be distance-related.

2 Tariff methodologies shall reflect the fixed costs of transmission system operators and distribution system operators and shall provide appropriate incentives to transmission system operators and distribution system operators over both the short and long run, in order to increase efficiencies, including energy efficiency, to foster market integration and security of supply, to support efficient investments, to support related research activities, and to facilitate innovation in interest of consumers in areas such as digitalisation, flexibility services and interconnection.

3 Where appropriate, the level of the tariffs applied to producers or final customers, or both shall provide locational signals [F85]..., and take into account the amount of network losses and congestion caused, and investment costs for infrastructure.

4 When setting the charges for network access, the following shall be taken into account:

[F86]a . . . . . .

b actual payments made and received as well as payments expected for future periods, estimated on the basis of previous periods.

5 Setting the charges for network access under this Article shall be without prejudice to charges resulting from congestion management referred to in Article 16.

6 There shall be no specific network charge on individual transactions for cross-zonal trading of electricity.

7 Distribution tariffs shall be cost-reflective taking into account the use of the distribution network by system users including active customers. Distribution tariffs may contain network connection capacity elements and may be differentiated based on system users' consumption or generation profiles. Where **[**[F87]smart metering systems have been deployed, the regulatory authority**]** shall consider time-differentiated network tariffs when fixing or approving transmission tariffs and distribution tariffs or their methodologies [F88]... and, where appropriate, time-differentiated network tariffs may be introduced to reflect the use of the network, in a transparent, cost efficient and foreseeable way for the final customer.

8 Distribution tariff methodologies shall provide incentives to distribution system operators for the most cost-efficient operation and development of their networks including through the procurement of services. For that purpose regulatory authorities shall recognise relevant costs as eligible, shall include those costs in distribution tariffs, and may introduce performance targets in order to provide incentives to distribution system operators to increase efficiencies in their networks, including through energy efficiency, flexibility and the development of smart grids and intelligent metering systems.

[[F89]8A The references to Article 15(1) and (6) of Directive 2012/27/EU of the second subparagraph of paragraph 1 are to be treated as references to those provisions with the following modifications—

a Article 15(1), subparagraph 1 is to be read as if—

i for “Member States” there were substituted “the Secretary of State”;

ii for "national energy regulatory authorities" there were substituted "the regulatory authority";

iii for "Directives 2009/72/EC and 2009/73/EC regarding their" there were substituted "retained EU law regarding its";

b Article 15(1), subparagraph 2 is to be read as if—

i for "Member States" there were substituted "the Secretary of State";

ii for "national energy regulatory authorities" there were substituted "the regulatory authority";

iii for "Directive 2009/72/EC" there were substituted "retained EU law";

c Article 15(1), subparagraph 4 is to be read as if—

i for "Member States" there were substituted "the Secretary of State";

ii for "Regulation (EC) No 714/2009" there were substituted "Regulation (EU) 2019/943";

d Article 15(6) is to be read as if for "Member States" (in both places it occurs) there were substituted "the Secretary of State";

e A reference to "the regulatory authority" in Article 15(1) as modified by this Article has the meaning given in Article 2 of this Regulation.**]**

F90 9 . . . . . .

F90 10 . . . . . .

Textual Amendments

F85 Words in Art. 18(3) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 17(2)**

F86 Art. 18(4)(a) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 17(3)**

F87 Words in Art. 18(7) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 17(4)(a)**

F88 Words in Art. 18(7) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 17(4)(b)**

F89 Art. 18(8A) inserted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 17(5)**

F90 Art. 18(9)(10) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 17(6)**

Article 19

Congestion income

1 Congestion-management procedures associated with a pre-specified timeframe may generate revenue only in the event of congestion which arises for that timeframe, except in the case of new interconnectors which benefit from an exemption under Article 63 of this Regulation, Article 17 of Regulation (EC) No 714/2009 or Article 7 of Regulation (EC) No

1228/2003. The procedure for the distribution of those revenues shall be subject to review by the regulatory **[**F91authority**]** and shall neither distort the allocation process in favour of any party requesting capacity or energy nor provide a disincentive to reduce congestion.

2 The following objectives shall have priority with the respect to the allocation of any revenues resulting from the allocation of cross-zonal capacity:

a guaranteeing the actual availability of the allocated capacity including firmness compensation; or

b maintaining or increasing cross-zonal capacities through optimisation of the usage of existing interconnectors by means of coordinated remedial actions, where applicable, or covering costs resulting from network investments that are relevant to reduce interconnector congestion.

3 Where the priority objectives set out in paragraph 2 have been adequately fulfilled, the revenues may be used as income to be taken into account by the regulatory **[**F92authority**]** when approving the methodology for calculating network tariffs or fixing network tariffs, or both. The residual revenues shall be placed on a separate internal account line until such a time as it can be spent for the purposes set out in paragraph 2.

4 The use of revenues in accordance with point (a) or (b) of paragraph 2 shall be subject to a methodology proposed by the transmission system operators after consulting **[**F93the regulatory authority**]** and relevant stakeholders and after approval by **[**F94the regulatory authority**]**. F95...

F96
...

The methodology shall set out at least the conditions under which the revenues can be used for the purposes referred to in paragraph 2, the conditions under which those revenues may be placed on a separate internal account line for future use for those purposes, and for how long those revenues may be placed on such an account line.

5 Transmission system operators shall clearly establish, in advance, how any congestion income will be used, and shall report to the regulatory **[**F97authority**]** on the actual use of that income. By 1 March each year, the regulatory **[**F98authority**]** shall publish a report setting out:

a the amount of revenue collected for the 12-month period ending on 31 December of the previous year;

b how that revenue was used pursuant to paragraph 2, including the specific projects the income has been used for, and the amount placed on a separate account line;

c the amount that was used when calculating network tariffs; and

d verification that the amount referred to in point (c) complies with this Regulation and the methodology developed pursuant to paragraphs 3 and 4.

Where some of the congestion revenues are used when calculating network tariffs, the report shall set out how the transmission system operators fulfilled the priority objectives set out in paragraph 2 where applicable.

Textual Amendments

F91 Word in Art. 19(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(2)**

F92 Word in Art. 19(3) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(3)**

F93 Words in Art. 19(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(4)(a)(i)**

F94 Words in Art. 19(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(4)(a)(ii)**

F95 Words in Art. 19(4) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(4)(a)(iii)**

F96 Words in Art. 19(4) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(4)(b)**

F97 Word in Art. 19(5) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(5)(a)**

F98 Word in Art. 19(5) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(5)(b)**

CHAPTER IV

RESOURCE ADEQUACY

Article 20

Resource adequacy [F99]...

1 [F100]... **[**[F101]The Secretary of State may**]** carry out **[**[F102]a**]** resource adequacy **[**[F103]assessment**]** pursuant to Article 24.

2 Where **[**[F104]a**]** resource adequacy assessment referred to in Article 24 identifies a resource adequacy concern, the **[**[F105]Secretary of State**]** shall identify any regulatory distortions or market failures that caused or contributed to the emergence of the concern.

3 **[**[F106]Where a resource adequacy assessment has identified a resource adequacy concern, the Secretary of State**]** shall develop and publish an implementation plan with a timeline for adopting measures to eliminate any identified regulatory distortions or market failures [F107].... When addressing resource adequacy concerns, the **[**[F108]Secretary of State**]** shall in particular take into account the principles set out in Article 3 and shall consider:

a removing regulatory distortions;

b removing price caps in accordance with Article 10;

c introducing a shortage pricing function for balancing energy as referred to in Article 44(3) of Regulation (EU) 2017/2195;

[F109]d . . . . . .

e enabling self-generation, energy storage, demand side measures and energy efficiency by adopting measures to eliminate any identified regulatory distortions;

f ensuring cost-efficient and market-based procurement of balancing and ancillary services**[**[F110].**]**

[F111]g . . . . . .

[F112]4 . . . . . .

F112 5 . . . . . .

6 The [F113 Secretary of State] shall monitor the application of their implementation plans and shall publish the results of the monitoring in an annual report F114 ....

F115 7 . . . . . .

8 [F116 The Secretary of State] shall continue to adhere to the implementation plan after the identified resource adequacy concern has been resolved.

Textual Amendments

F99 Words in Art. 20 heading omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(2)**

F100 Words in Art. 20(1) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(3)(a)**

F101 Words in Art. 20(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(3)(b)(i)**

F102 Word in Art. 20(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(3)(b)(ii)**

F103 Word in Art. 20(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(3)(b)(iii)**

F104 Word in Art. 20(2) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(4)(a)**

F105 Words in Art. 20(2) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(4)(b)**

F106 Words in Art. 20(3) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(5)(a)**

F107 Words in Art. 20(3) omitted (31.12.2020) by virtue of The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470), reg. 1(2), **Sch. 1 para. 10(4)** (with Sch. 3)

F108 Words in Art. 20(3) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(5)(b)**

F109 Art. 20(3)(d) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(5)(c)**

F110 Art. 20(3)(f): full stop substituted for semicolon (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(5)(d)**

F111 Art. 20(3)(g) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(5)(e)**

F112 Art. 20(4)(5) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(6)**

F113 Words in Art. 20(6) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(7)(a)**

F114 Words in Art. 20(6) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(7)(b)**

F115 Art. 20(7) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(8)**

F116 Words in Art. 20(8) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 19(9)**

Article 21

General principles for capacity mechanisms

1 To eliminate residual resource adequacy concerns, **[**F117the Secretary of State**]** may, as a last resort while implementing the measures referred to in Article 20(3) of this Regulation F118..., introduce **[**F119a**]** capacity **[**F120mechanism**]**.

F121 2 . . . . . .

3 **[**F122The Secretary of State**]** shall assess whether a capacity mechanism in the form of strategic reserve is capable of addressing the resource adequacy concerns. Where this is not the case, **[**F123the Secretary of State**]** may implement a different type of capacity mechanism.

4 **[**F124The Secretary of State**]** shall not introduce **[**F125a capacity mechanism**]** where **[**F126any**]** resource adequacy assessment **[**F127has**]** have not identified a resource adequacy concern.

F128 5 . . . . . .

6 **[**F129The Secretary of State**]** shall review **[**F130the**]** capacity mechanism and shall ensure that no new contracts are concluded under that mechanism where **[**F131the**]** resource adequacy assessment **[**F132has**]** not identified a resource adequacy concern F133....

7 When designing capacity mechanisms **[**F134the Secretary of State**]** shall include a provision allowing for an efficient administrative phase-out of the capacity mechanism where no new contracts are concluded under paragraph 6 during three consecutive years.

8 Capacity mechanisms shall be temporary **[**F135and shall be approved**]** for no longer than 10 years. They shall be phased out or the amount of the committed capacities shall be reduced on the basis of the implementation plans referred to in Article 20. **[**F136The Secretary of State**]** shall continue to apply the implementation plan after the introduction of the capacity mechanism.

Textual Amendments

F117 Words in Art. 21(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(2)(a)**

F118 Words in Art. 21(1) omitted (E.W.S.) (31.12.2020) by virtue of The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470), reg. 1(2), **Sch. 1 para. 10(5)** (with Sch. 3)

F119 Word in Art. 21(1) inserted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(2)(b)**

F120 Word in Art. 21(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(2)(c)**

F121 Art. 21(2) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(3)**

F122 Words in Art. 21(3) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(4)(a)**

F123 Words in Art. 21(3) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(4)(b)**

F124 Words in Art. 21(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(5)(a)**

F125 Words in Art. 21(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(5)(b)**

F126 Word in Art. 21(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(5)(c)**

F127 Word in Art. 21(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(5)(d)**

F128 Art. 21(5) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(6)**

F129 Words in Art. 21(6) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(7)(a)**

F130 Word in Art. 21(6) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(7)(b)**

F131 Word in Art. 21(6) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(7)(c)**

F132 Word in Art. 21(6) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(7)(d)**

F133 Words in Art. 21(6) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(7)(e)**

F134 Words in Art. 21(7) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(8)**

F135 Words in Art. 21(8) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(9)(a)**

F136 Words in Art. 21(8) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 20(9)(b)**

Article 22

Design principles for capacity mechanisms

1 Any capacity mechanism shall:

a be temporary;

b not create undue market distortions [F137]...;

c not go beyond what is necessary to address the adequacy concerns referred to in Article 20;

d select capacity providers by means of a transparent, non-discriminatory and competitive process;

e provide incentives for capacity providers to be available in times of expected system stress;

f ensure that the remuneration is determined through the competitive process;

g set out the technical conditions for the participation of capacity providers in advance of the selection process;

h be open to participation of all resources that are capable of providing the required technical performance, including energy storage and demand side management;

i apply appropriate penalties to capacity providers that are not available in times of system stress.

2 The design of strategic reserves shall meet the following requirements:

a where a capacity mechanism has been designed as a strategic reserve, the resources thereof are to be dispatched only if the transmission system operators are likely to exhaust their balancing resources to establish an equilibrium between demand and supply;

b during imbalance settlement periods where resources in the strategic reserve are dispatched, imbalances in the market are to be settled at least at the value of lost load or at a higher value than the intraday technical price limit as referred in Article 10(1), whichever is higher;

c the output of the strategic reserve following dispatch is to be attributed to balance responsible parties through the imbalance settlement mechanism;

d the resources taking part in the strategic reserve are not to receive remuneration from the wholesale electricity markets or from the balancing markets;

e the resources in the strategic reserve are to be held outside the market for at least the duration of the contractual period.

The requirement referred to in point (a) of the first subparagraph shall be without prejudice to the activation of resources before actual dispatch in order to respect the ramping constraints and operating requirements of the resources. The output of the strategic reserve during activation shall not be attributed to balance groups through wholesale markets and shall not change their imbalances.

3 In addition to the requirements laid down in paragraph 1, capacity mechanisms other than strategic reserves shall:

a be constructed so as to ensure that the price paid for availability automatically tends to zero when the level of capacity supplied is expected to be adequate to meet the level of capacity demanded;

b remunerate the participating resources only for their availability and ensure that the remuneration does not affect decisions of the capacity provider on whether or not to generate;

c ensure that capacity obligations are transferable between eligible capacity providers.

4 Capacity mechanisms shall incorporate the following requirements regarding CO_2 emission limits:

a from 4 July 2019 at the latest, generation capacity that started commercial production on or after that date and that emits more than 550 g of CO_2 of fossil fuel origin per kWh of electricity shall not be committed or to receive payments or commitments for future payments under a capacity mechanism;

b from 1 July 2025 at the latest, generation capacity that started commercial production before 4 July 2019 and that emits more than 550 g of CO_2 of fossil fuel origin per kWh of electricity and more than 350 kg CO_2 of fossil fuel origin on average per year per installed kWe shall not be committed or receive payments or commitments for future payments under a capacity mechanism.

The emission limit of 550 g CO_2 of fossil fuel origin per kWh of electricity and the limit of 350 kg CO_2 of fossil fuel origin on average per year per installed kWe referred to in points (a) and (b) of the first subparagraph shall be calculated on the basis of the design efficiency of the generation unit meaning the net efficiency at nominal capacity under the relevant standards provided for by the International Organization for Standardization.

F138 ....

5 **[**[F139]The Secretary of State must adapt the capacity mechanism that was applied on 4 July 2019**]** to comply with Chapter 4 without prejudice to commitments or contracts concluded by 31 December 2019.

Textual Amendments

F137 Words in Art. 22(1)(b) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 21(2)**

F138 Words in Art. 22(4) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 21(3)**

F139 Words in Art. 22(5) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 21(4)**

Article 23

[[F140]**Methodology for] resource adequacy assessment**

F1411 . . . . . .

F1412 . . . . . .

F141 3 . . . . . .

F141 4 . . . . . .

5 The F142... resource adequacy assessment **[**F143must cover the territory of Great Britain and**]** shall be based on a transparent methodology which shall ensure that the assessment:

F144 a . . . . . .

b is based on appropriate central reference scenarios of projected demand and supply including an economic assessment of the likelihood of retirement, mothballing, new-build of generation assets and measures to reach energy efficiency and electricity interconnection targets and appropriate sensitivities on extreme weather events, hydrological conditions, wholesale prices and carbon price developments;

c contains separate scenarios reflecting the differing likelihoods of the occurrence of resource adequacy concerns which **[**F145a capacity mechanism is**]** designed to address;

d appropriately takes account of the contribution of all resources including existing and future possibilities for generation, energy storage, sectoral integration, demand response, and import and export and their contribution to flexible system operation;

e anticipates the likely impact of the measures referred in Article 20(3);

f includes variants without existing or planned capacity mechanisms and, where applicable, variants with such mechanisms;

g is based on a market model using the flow-based approach, where applicable;

h applies probabilistic calculations;

i applies a single modelling tool;

j includes at least the following indicators referred to in Article 25:

— ‘expected energy not served’, and

— ‘loss of load expectation’;

k identifies the sources of possible resource adequacy concerns, in particular whether it is a network constraint, a resource constraint, or both;

l takes into account real network development;

m ensures that the national characteristics of generation, demand flexibility and energy storage, the availability of primary resources and the level of interconnection are properly taken into consideration.

F146 6 . . . . . .

F146 7 . . . . . .

Textual Amendments

F140 Words in Art. 23 heading substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 22(2)**

F141 Art. 23(1)-(4) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 22(3)**

F142 Word in Art. 23(5) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 22(4)(a)(i)**

F143 Words in Art. 23(5) inserted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 22(4)(a)(ii)**

F144 Art. 23(5)(a) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 22(4)(b)**

F145 Words in Art. 23(5)(c) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 22(4)(c)**

F146 Art. 23(6)(7) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 22(5)**

Article 24

F147... Resource adequacy assessments

1 National resource adequacy assessments **[**F148may**]** have a regional scope and shall be based on the methodology F149... in points (b) to (m) of Article 23(5).

F150...

National resource adequacy assessments may take into account additional sensitivities to those referred in point (b) of Article 23(5). In such cases, national resource adequacy assessments may:

a make assumptions taking into account the particularities of national electricity demand and supply;

b use tools and consistent recent data that are complementary to those used by the ENTSO for Electricity for the European resource adequacy assessment.

In addition, the national resource adequacy assessments, in assessing the contribution of capacity providers located in another Member State to the security of supply of the bidding zones that they cover, shall use the methodology as provided for in point (a) of Article 26(11).

2 F151... Resource adequacy assessments F152... shall be made publicly available.

F1533 . . . . . .

Textual Amendments

F147 Word in Art. 24 heading omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 23(2)**

F148 Word in Art. 24(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 23(3)(a)(i)**

F149 Words in Art. 24(1) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 23(3)(a)(ii)**

F150 Words in Art. 24(1) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 23(3)(a)(iii)**

F151 Word in Art. 24(2) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 23(4)(a)**

F152 Words in Art. 24(2) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 23(4)(b)**

F153 Art. 24(3) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 23(5)**

Article 25

Reliability standard

1 **[**F154The capacity mechanism**]** shall have a reliability standard in place. A reliability standard shall indicate the necessary level of security of supply F155... in a transparent manner. F156...

[F157**]**2 The reliability standard shall be set by the Secretary of State in accordance with regulation 6 of the Electricity Capacity Regulations 2014.**]**

3 The reliability standard shall be calculated using at least the value of lost load and the cost of new entry over a given timeframe and shall be expressed as 'expected energy not served' and 'loss of load expectation'.

4 When applying capacity mechanisms, the parameters determining the amount of capacity procured in the capacity mechanism shall be approved by the **[**F158the Secretary of State**]**.

Textual Amendments

F154 Words in Art. 25(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 24(2)(a)**

F155 Words in Art. 25(1) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 24(2)(b)**

F156 Words in Art. 25(1) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 24(2)(c)**

F157 Art. 25(2) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 24(3)**

F158 Words in Art. 25(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 24(4)**

F159Article 26

Cross-border participation in capacity mechanisms

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 27

Approval procedure

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

CHAPTER V

TRANSMISSION SYSTEM OPERATION

F159 Article 28

European network of transmission system operators for electricity

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 29

The ENTSO for Electricity

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 *Article 30*

Tasks of the ENTSO for Electricity

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 *Article 31*

Consultations

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 *Article 32*

Monitoring by ACER

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 *Article 33*

Costs

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 34

Regional cooperation of transmission system operators

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 35

Establishment and mission of regional coordination centres

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 36

Geographical scope of regional coordination centres

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 37

Tasks of regional coordination centres

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 38

Cooperation within and between regional coordination centres

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 39

Working arrangements

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 40

Consultation procedure

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 41

Transparency

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 42

Adoption and review of coordinated actions and recommendations

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 43

Management board of regional coordination centres

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 44

Organisational structure

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 45

Equipment and staff

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 46

Monitoring and reporting

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 47

Liability

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 48

Ten-year network development plan

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

F159 Article 49

Inter-transmission system operator compensation mechanism

. . . . . .

Textual Amendments

F159 Arts. 26-49 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 25**

Article 50

Provision of information

1 Transmission system operators shall put in place coordination and information exchange mechanisms to ensure the security of the networks in the context of congestion management.

2 The safety, operational and planning standards used by transmission system operators shall be made public. The information published shall include a general scheme for the calculation of the total transfer capacity and the transmission reliability margin based upon the electrical and physical features of the network. Such schemes shall be subject to approval by the regulatory **[**F160authority**]**.

3 Transmission system operators shall publish estimates of available transfer capacity for each day, indicating any available transfer capacity already reserved. Those publications shall be made at specified intervals before the day of transport and shall include, in any event, week-ahead and month-ahead estimates, as well as a quantitative indication of the expected reliability of the available capacity.

4 Transmission system operators shall publish relevant data on aggregated forecast and actual demand, on availability and actual use of generation and load assets, on availability and use of the networks and interconnections, on balancing power and reserve capacity and on the availability of flexibility. For the availability and actual use of small generation and load assets, aggregated estimate data may be used.

5 The market participants concerned shall provide the transmission system operators with the relevant data.

6 Generation undertakings which own or operate generation assets, where at least one generation asset has an installed capacity of at least 250 MW, or which have a portfolio comprising at least 400 MW of generation assets, shall keep at the disposal of the regulatory authority **[**F161and the competition authority**]**, for five years all hourly data per plant that is necessary to verify all operational dispatching decisions and the bidding behaviour at power exchanges, interconnection auctions, reserve markets and over-the-counter-markets. The per-plant and per hour information to be stored shall include, but shall not be limited to, data on available generation capacity and committed reserves, including allocation of those committed reserves on a per-plant level, at the times the bidding is carried out and when production takes place.

7 Transmission system operators shall exchange regularly a set of sufficiently accurate network and load flow data in order to enable load flow calculations for each transmission system operator in its relevant area. The same set of data shall be made available to the regulatory **[**F162authority and the Secretary of State**]** upon request. The regulatory **[**F163authority and the Secretary of State**]** shall treat that set of data confidentially, and shall ensure that confidential treatment is also given by any consultant carrying out analytical work on their request, on the basis of those data.

Textual Amendments

F160 Word in Art. 50(2) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 26(2)**

F161 Words in Art. 50(6) substituted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 26(3)**

F162 Words in Art. 50(7) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 26(4)(a)**

F163 Words in Art. 50(7) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 26(4)(b)**

F164 Article 51

Certification of transmission system operators

. . . . . .

Textual Amendments

F164 Arts. 51-56 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 27**

CHAPTER VI

DISTRIBUTION SYSTEM OPERATION

F164 Article 52

European entity for distribution system operators

. . . . . .

Textual Amendments

F164 Arts. 51-56 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 27**

F164 Article 53

Establishment of the EU DSO entity

. . . . . .

Textual Amendments

F164 Arts. 51-56 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 27**

F164 Article 54

Principal rules and procedures for the EU DSO entity

. . . . . .

Textual Amendments

F164 Arts. 51-56 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 27**

F164 Article 55

Tasks of the EU DSO entity

. . . . . .

Textual Amendments

F164 Arts. 51-56 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 27**

F164 Article 56

Consultations in the network code development process

. . . . . .

Textual Amendments

F164 Arts. 51-56 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 27**

Article 57

Cooperation between distribution system operators and transmission system operators

1 Distribution system operators and transmission system operators shall cooperate with each other in planning and operating their networks. In particular, distribution system operators and transmission system operators shall exchange all necessary information and data regarding, the performance of generation assets and demand side response, the daily operation of their networks and the long-term planning of network investments, with the view to ensure the cost-efficient, secure and reliable development and operation of their networks.

2 Distribution system operators and transmission system operators shall cooperate with each other in order to achieve coordinated access to resources such as distributed generation, energy storage or demand response that may support particular needs of both the distribution system operators and the transmission system operators.

CHAPTER VII

NETWORK CODES AND GUIDELINES

F165 Article 58

Adoption of network codes and guidelines

. . . . . .

Textual Amendments

F165 Art. 58 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 28(1)** (with Sch. 4 para. 28(2))

F166 Article 59

Establishment of network codes

. . . . . .

Textual Amendments

F166 Art. 59 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 28(1)** (with Sch. 4 para. 28(2))

I[F167] Article 60

Amendments of network codes or guidelines

1 In this Article—

"Regulation (EC) No 714/2009" 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 for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003;

"electricity network code or guideline" means—

a a network code adopted by the Commission under—

i Article 6 of Regulation (EC) No 714/2009 before 1 January 2020; or

ii Article 59 of this Regulation before IP completion day,

as those codes have effect in domestic law;

b guidelines adopted by the Commission under—

i Article 18 of Regulation (EC) No 714/2009 before 1 January 2020;

ii Article 61 of this Regulation before IP completion day,

as those guidelines have effect in domestic law.

2 The Secretary of State may, by regulations, amend an electricity network code or guideline.

3 The power in paragraph 2 includes power to—

a insert into the electricity network code or guideline new provision about the same subject-matter as, or subject-matter related to, an existing provision of the electricity network code or guideline; or

b revoke the electricity network code or guideline or any provision of it, either with or without making replacement provision.

4 Regulations under paragraph 2 must be consistent with the objectives of contributing to non-discrimination, effective competition and the efficient functioning of the electricity market.

5 Regulations under paragraph 2 may—

a include supplementary, incidental, consequential, transitional, transitory or saving provision; and

b make different provision for different cases.

6 The power to make regulations conferred on the Secretary of State by paragraph 2 is exercisable by statutory instrument.

7 Before the Secretary of State makes regulations under paragraph 2, the Secretary of State must consult—

a the regulatory authority;

b persons who are certified, within the meaning of section 10O of the Electricity Act 1989; and

c such other persons as the Secretary of State considers appropriate.

8 A statutory instrument containing regulations under this Article may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.**]**

Textual Amendments

F167 Art. 60 substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 29**

F168 Article 61

Guidelines

. . . . . .

Textual Amendments

F168 Art. 61 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 30(1)** (with Sch. 4 para. 30(2))

F169 Article 62

Right of Member States to provide for more detailed measures

. . . . . .

Textual Amendments

F169 Art. 62 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 31**

CHAPTER VIII

FINAL PROVISIONS

Article 63

New interconnectors

1 New direct current interconnectors may, upon request, be exempted, for a limited period, from **[**F170the provisions specified in paragraph 4A**]** provided that the following conditions are met:

a the investment enhances competition in electricity supply;

b the level of risk attached to the investment is such that the investment would not take place unless an exemption is granted;

c the interconnector is owned by a **[**F171person who**]** is separate, at least in terms of its legal form, from the system operators in whose systems that interconnector is to be built;

d charges are levied on users of that interconnector;

e F172... no part of the capital or operating costs of the interconnector has been recovered from any component of charges made for the use of transmission or distribution systems linked by the interconnector; and

f an exemption would not be to the detriment of competition or the effective functioning of the **[**F173electricity market in Great Britain**]**, or the efficient functioning of the regulated system to which the interconnector is linked.

2 Paragraph 1 shall also apply, in exceptional cases, to alternating current interconnectors provided that the costs and risks of the investment in question are particularly high when compared with the costs and risks normally incurred when connecting two neighbouring national transmission systems by an alternating current interconnector.

3 Paragraph 1 shall also apply to significant increases of capacity in existing interconnectors.

4 The decision granting an exemption as referred to in paragraphs 1, 2 and 3 shall be taken on a case-by-case basis by the regulatory **[**F174authority**]**. An exemption may cover all or part of the capacity of the new interconnector, or of the existing interconnector with significantly increased capacity.

F175...

In deciding to grant an exemption, **[**F176the regulatory authority**]** shall take into consideration, on a case-by-case basis, the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the interconnector. When deciding on those conditions, regulatory authorities shall, in particular, take account of additional capacity to be built or the modification of existing capacity, the time-frame of the project and national circumstances.

Before granting an exemption, the **[**F177regulatory authority**]** shall decide on the rules and mechanisms for management and allocation of capacity. Those congestion-management rules shall include the obligation to offer unused capacity on the market and users of the facility shall be entitled to trade their contracted capacities on the secondary market. In the assessment of the criteria referred to in points (a), (b) and (f) of paragraph 1, the results of the capacity-allocation procedure shall be taken into account.

F178...

The exemption decision, including any conditions referred to in the third subparagraph of this paragraph, shall be duly reasoned and published.

[F179 4A The provisions specified for the purposes of paragraph 1 are the standard conditions of an interconnector licence granted under section 6(1)(e) of the Electricity Act 1989 relating to—

a the provision of third-party access to an interconnector;

b tariffs or charging methodologies for such access;

c use of revenues.**]**

F180 5 . . . . . .

F180 6 . . . . . .

F180 7 . . . . . .

F180 8 . . . . . .

9 F181... Paragraphs 1 to [F182 4A apply to the decision of the regulatory authority] to modify an exemption decision, taking into account the particularities of the existing exemption.

F183 10 . . . . . .

F183 11 . . . . . .

Textual Amendments

F170 Words in Art. 63(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(2)(a)**

F171 Words in Art. 63(1)(c) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(2)(b)**

F172 Words in Art. 63(1)(e) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(2)(c)**

F173 Words in Art. 63(1)(f) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(2)(d)**

F174 Word in Art. 63(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(3)(a)**

F175 Words in Art. 63(4) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(3)(b)**

F176 Words in Art. 63(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(3)(c)**

F177 Words in Art. 63(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(3)(d)**

F178 Words in Art. 63(4) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(3)(e)**

F179 Art. 63(4A) inserted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(4)**

F180 Art. 63(5)-(8) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(5)**

F181 Words in Art. 63(9) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(6)(a)**

F182 Words in Art. 63(9) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(6)(b)**

F183 Art. 63(10)(11) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 32(7)**

Article 64

Derogations

[F184 1 The Secretary of State or regulatory authority, as appropriate, may grant a derogation from the relevant provisions of Articles 3, 6, 7(1), 8(4), 9 to 11, 16 and 19 to 25 provided that the Secretary of State or regulatory authority is satisfied that there are substantial problems for the operation of small isolated systems and small connected systems.**]**

F185... The derogation shall be limited in time and shall subject to conditions aiming to increase competition and integration with the F186... market for electricity **[**F187in Great Britain**]**.

F188...

F188...

A derogation granted under this Article shall aim to ensure that it does not obstruct the transition towards renewable energy, increased flexibility, energy storage, electromobility and demand response.

In its decision granting a derogation the **[**F189Secretary of State**]** shall set out to what extent the derogation is to take into account the application of the network codes and guidelines.

F190 2 . . . . . .

F191 3 . . . . . .

F192 4 . . . . . .

Textual Amendments

F184 Words in Art. 64(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 33(2)(a)**

F185 Words in Art. 64(1) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 33(2)(b)(i)**

F186 Word in Art. 64(1) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 33(2)(b)(ii)**

F187 Words in Art. 64(1) inserted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 33(2)(b)(iii)**

F188 Words in Art. 64(1) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 33(2)(c)**

F189 Words in Art. 64(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 33(2)(d)**

F190 Art. 64(2) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 33(3)**

F191 Art. 64(3) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 33(3)**

F192 Art. 64(4) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 33(3)**

F193 Article 65

Provision of information and confidentiality

. . . . . .

Textual Amendments

F193 Arts. 65-68 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 34**

F193 Article 66

Penalties

. . . . . .

Textual Amendments

F193 Arts. 65-68 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 34**

F193 Article 67

Committee procedure

. . . . . .

Textual Amendments

F193 Arts. 65-68 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 34**

[F193]Article 68

Exercise of the delegation

. . . . . .

Textual Amendments

F193 Arts. 65-68 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 34**

[F194]Article 69

Commission reviews and reports

. . . . . .

Textual Amendments

F194 Art. 69 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 35**

Article 70

Repeal

[F195]... References to **[**[F196]Regulation (EC) No 714/2009 in retained direct EU legislation**]** shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex III.

Textual Amendments

F195 Words in Art. 70 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 36(a)**

F196 Words in Art. 70 substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 36(b)**

Article 71

Entry into force

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

2 It shall apply from 1 January 2020.

Notwithstanding the first subparagraph, Articles 14, 15, 22(4), 23(3) and (6), 35, 36 and 62 shall apply from the date of entry into force of this Regulation. For the purpose of implementing Article 14(7) and Article 15(2), Article 16 shall apply from that date.

F197 …

Done at Brussels, 5 June 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

Textual Amendments

F197 Words in Signature omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 37**

[F198]ANNEX I

. . . . . .

Textual Amendments

F198 Annex 1 omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 38**

ANNEX II

REPEALED REGULATION WITH LIST OF THE SUCCESSIVE AMENDMENTS THERETO

Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 (OJ L 115, 25.4.2013, p. 39)	Point (a) of Article 8(3) Point (a) of Article 8(10) Article 11 Article 18(4a) Article 23(3)
Commission Regulation (EU) No 543/2013 of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council (OJ L 163, 15.6.2013, p. 1)	Points 5.5 to 5.9 of Annex I

ANNEX III

CORRELATION TABLE

Regulation (EC) No 714/2009	**This Regulation**
—	Article 1(a)
—	Article 1(b)
Article 1(a)	Article 1(c)
Article 1(b)	Article 1(d)
Article 2(1)	Article 2(1)
Article 2(2)(a)	Article 2(2)
Article 2(2)(b)	Article 2(3)

Article 2(2)(c)	Article 2(4)
Article 2(2)(d)	—
Article 2(2)(e)	—
Article 2(2)(f)	—
Article 2(2)(g)	Article 2 (5)
—	Article 2 (6) to (71)
—	Article 3
—	Article 4
—	Article 5
—	Article 6
—	Article 7
—	Article 8
—	Article 9
—	Article 10
—	Article 11
—	Article 12
—	Article 13
—	Article 14
—	Article 15
Article 16(1) to (3)	Article 16(1) to (4)
—	Article 16(5) to (8)
Article 16(4) to (5)	Article 16(9) to (11)
—	Article 16(12) and (13)
—	Article 17
Article 14(1)	Article 18(1)
—	Article 18(2)
Article 14(2) to (5)	Article 18(3) to (6)
—	Article 18(7) to (11)
—	Article 19(1)
Article 16(6)	Article 19(2) and (3)
—	Article 19(4) and (5)
—	Article 20
—	Article 21
—	Article 22

Article 8(4)	Article 23(1)
—	Article 23(2) to (7)
—	Article 25
—	Article 26
—	Article 27
Article 4	Article 28(1)
—	Article 28(2)
Article 5	Article 29 (1) to (4)
—	Article 29(5)
Article 8(2) (first sentence)	Article 30(1)(a)
Article 8(3)(b)	Article 30(1)(b)
—	Article 30(1)(c)
Article 8(3)(c)	Article 30 (1)(d)
—	Article 30 (1)(e) and (f)
	Article 30(1) (g) and (h)
Article 8 (3)(a)	Article 30(1)(i)
Article 8(3)(d)	Article 30(1)(j)
	Article 30(1)(k)
Article 8(3)(e)	Article 30(1)(l)
	Article 30(1)(m) to (o)
—	Article 30(2) and (3)
Article 8(5)	Article 30(4)
Article 8(9)	Article 30(5)
Article 10	Article 31
Article 9	Article 32
Article 11	Article 33
Article 12	Article 34
—	Article 35
—	Article 36
—	Article 37
—	Article 38
—	Article 39
—	Article 40
	Article 41

—	Article 42
—	Article 43
—	Article 44
—	Article 45
—	Article 46
—	Article 47
Article 8(10)	Article 48
Article 13	Article 49
Article 2(2) (final subparagraph)	Article 49(7)
Article 15	Article 50(1) to (6)
Annex I point 5.10	Article 50(7)
Article 3	Article 51
—	Article 52
—	Article 53
	Article 54
—	Article 55
—	Article 56
—	Article 57
—	Article 58
Article 8(6)	Article 59(1)(a), (b) and (c)
—	Article 59(1)(d) and (e)
	Article 59(2)
Article 6(1)	Article 59(3)
Article 6(2)	Article 59(4)
Article 6(3)	Article 59(5)
—	Article 59(6)
Article 6(4)	Article 59(7)
Article 6(5)	Article 59(8)
Article 6(6)	Article 59(9)
Article 8(1)	Article 59(10)
Article 6(7)	—
Article 6(8)	—
Article 6(9) and (10)	Article 59(11) and (12)
Article 6(11)	Article 59(13) and (14)

Article 6 (12)	Article 59(15)
Article 8(2)	Article 59(15)
—	Article 60(1)
Article 7(1)	Article 60(2)
Article 7(2)	Article 60(3)
Article 7(3)	—
Article 7(4)	—
—	Article 61(1)
—	Article 61(2)
Article 18(1)	Article 61(3)
Article 18(2)	—
Article 18(3)	Article 61(4)
Article 18(4)	—
Article 18(4a)	Article 61(5)
Article 18(5)	Article 61(5) and (6)
Article 19	—
Article 21	Article 62
Article 17	Article 63
—	Article 64
Article 20	Article 65
Article 22	Article 66
Article 23	Article 67
Article 24	—
—	Article 68
—	Article 69
Article 25	Article 70
Article 26	Article 71

(**1**) OJ C 288, 31.8.2017, p. 91.

(**2**) OJ C 342, 12.10.2017, p. 79.

(**3**) Position of the European Parliament of 26 March 2019 (not yet published in the Official Journal) and Decision of the Council of 22 May 2019.

(**4**) Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 (OJ L 211, 14.8.2009, p. 15).

(**5**) Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (OJ L 312, 28.11.2017, p. 6).

(**6**) 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 (see page 125 of this Official Journal).

(**7**) Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (OJ L 197, 25.7.2015, p. 24).

(**8**) Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (OJ L 259, 27.9.2016, p. 42).

(**9**) Commission Regulation (EU) 2016/631 of 14 April 2016 establishing a network code on requirements for grid connection of generators (OJ L 112, 27.4.2016, p. 1).

(**10**) Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (see page 22 of this Official Journal).

(**11**) Regulation (EU) 2019/941 of the European Parliament and of the Council of 5 June 2019 on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC (see page 1 of this Official Journal).

(**12**) Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation (OJ L 220, 25.8.2017, p. 1).

(**13**) Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity (OJ L 176, 15.7.2003, p. 1).

(**14**) OJ L 123, 12.5.2016, p. 1.

(**15**) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(**16**) Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

Changes to legislation:
Regulation (EU) 2019/943 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to :

– Art. 2 words substituted by S.I. 2024/706 reg. 48

Changes and effects yet to be applied to the whole legislation item and associated provisions

– Art. 63(4A) words substituted by 2023 c. 52 Sch. 17 para. 18