

2019 No. 531

EXITING THE EUROPEAN UNION

GAS

**The Gas (Security of Supply and Network Codes) (Amendment)
(EU Exit) Regulations 2019**

Made - - - - - *15th March 2019*

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018^(a).

In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019.

(2) These Regulations come into force on exit day.

Interpretation

2. In these Regulations—

“the Balancing Code” means Commission Regulation (EU) No 312/2014 establishing a Network Code on Gas Balancing of Transmission Networks;

“the Interoperability Code” means Commission Regulation (EU) 2015/703 establishing a network code on interoperability and data exchange rules;

“the Capacity Allocation Mechanisms Code” means Commission Regulation (EU) 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems;

“the Tariffs Code” means Commission Regulation (EU) 2017/460 establishing a network code on harmonised transmission tariff structures for gas;

“the Security of Gas Supply Regulation” means Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply^(b).

Amendments to the Security of Gas Supply Regulation and the gas network codes

3. The Security of Gas Supply Regulation is amended as set out in Schedule 1.

^(a) 2018 c. 16.

^(b) The Security of Supply Regulation is amended by S.I. 2018/1286.

4. The Balancing Code is amended as set out in Schedule 2.
5. The Interoperability Code is amended as set out in Schedule 3.
6. The Capacity Allocation Mechanisms Code is amended as set out in Schedule 4.
7. The Tariffs Code is amended as set out in Schedule 5.

Claire Perry
Minister of State

15th March 2019

Department for Business, Energy and Industrial Strategy

SCHEDULE 1

Regulation 3

Amendments to the Security of Gas Supply Regulation

- 1.—(1) Article 1 is amended as follows.
 - (2) In the first sentence—
 - (a) for “the Union” substitute “the United Kingdom”;
 - (b) for “internal market in natural gas (‘gas’)” substitute “market in natural gas (‘gas’) in the United Kingdom”;
 - (c) omit “, including solidarity measure of a last resort,”; and
 - (d) for “the Member States and the Union” substitute “the Secretary of State, the Northern Ireland department and the regulatory authority”.
 - (3) In the second sentence—
 - (a) omit “, in a spirit of solidarity,”; and
 - (b) omit “at national, regional and Union level”.
- 2.—(1) Article 2 is amended as follows.
 - (2) Renumber the existing text of Article 2 as paragraph 1.
 - (3) In paragraph 1—
 - (a) before point (1) insert—

“(A1) ‘the Gas Regulation’ means Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to natural gas transmission networks(a);

“(A2) ‘the Northern Ireland department’ means the Department for the Economy;”;
 - (b) omit point (2);
 - (c) in point (5) (definition of “protected customer”)—
 - (i) for “Member State concerned” substitute “Secretary of State”;
 - (ii) for “that Member State” substitute “the United Kingdom”;
 - (d) omit point (6);
 - (e) in point (7) (definition of “competent authority”)—
 - (i) after “‘competent authority’” insert “, in relation to a member State,”;
 - (ii) for “Member” substitute “member”;
 - (iii) at the end insert “as it applies in EU law”;
 - (f) in point (8) (definition of “national regulatory authority”), after “‘national regulatory authority’” insert “, in relation to a member State,”;
 - (g) after point (8) insert—

(a) The Gas Regulation is amended by S.I. 2018/1286 and S.I. 2019/530.

“(8A) ‘regulatory authority’—

- (a) in relation to Great Britain, means the Gas and Electricity Markets Authority; and
- (b) in relation to Northern Ireland, means the Northern Ireland Authority for Utility Regulation.”

(h) omit point (9); and

(i) omit points (11) to (26).

(4) After paragraph 1 insert—

“2. For the purposes of this Regulation, the following expressions have the meanings given in the Gas Regulation—

- ‘ancillary services’;
- ‘customer’;
- ‘distribution’;
- ‘distribution system operator’;
- ‘firm capacity’;
- ‘interconnector’;
- ‘interruptible capacity’;
- ‘LNG facility’;
- ‘LNG facility capacity’;
- ‘natural gas undertaking’;
- ‘storage capacity’;
- ‘system’;
- ‘system user’;
- ‘technical capacity’;
- ‘transmission’;
- ‘transmission system operator’.”.

3.—(1) Article 3 is amended as follows.

(2) In paragraph 1, for “, Member States, in particular through their competent authorities, and the Commission,” substitute “, the Secretary of State, the Northern Ireland department and the regulatory authority”.

(3) In paragraph 2—

(a) omit the first two sentences;

(b) in the third sentence—

(i) for “Member States may allow the competent authority to” substitute “The Secretary of State may”;

(ii) after “other bodies” insert “, including the Northern Ireland department”;

(c) in the fourth sentence—

(i) for “competent authorities delegate” substitute “the Secretary of State delegates”;

(ii) for “they” substitute “the Secretary of State”; and

(d) in the fifth sentence, for “competent authority” substitute “Secretary of State”.

(4) Omit paragraph 3.

(5) In paragraph 4—

(a) for “the competent authority” substitute “the Secretary of State”;

(b) for “a three level” substitute “an”;

(c) omit “, first,”; and

(d) omit “, second, Member States at national or regional level, and third, the Union”.

(6) Omit paragraphs 5 to 7.

4. Omit Article 4.

5.—(1) Article 5 is amended as follows.

(2) In paragraph 1—

- (a) in the first subparagraph, for “Each Member State or, where a Member State so provides, its competent authority” substitute “The Secretary of State”;
- (b) in the second subparagraph, for the words from “the obligations of” to the end, substitute “the relevant obligations of transmission system operators”;
- (c) at the end, insert as a new subparagraph—

“For the purposes of the preceding subparagraph, a “relevant obligation” is—

- (a) an obligation laid down in the Gas Regulation;
- (b) an obligation imposed before exit day for the purpose of implementing Directive 2009/73/EC (including such an obligation as modified on or after exit day); or
- (c) an obligation imposed on or after exit day which is the same as or similar to an obligation which could have been imposed before exit day for the purpose of implementing Directive 2009/73/EC.”.

(3) In paragraph 2, for “competent authority” substitute “Secretary of State”.

(4) Omit paragraph 3.

(5) In paragraph 4—

- (a) in the words before subparagraph (a)—
 - (i) for “The transmission system operators shall” substitute “The transmission system operators must endeavour to”;
 - (ii) for “on all interconnections between Member States”, substitute “on all interconnections between the United Kingdom and member States”;
- (b) in subparagraph (b), omit “other Member States and with the Commission”;
- (c) in the words after subparagraph (b), in the second sentence, for “The Commission” substitute “The Secretary of State”.

(6) In paragraph 5, in the words before subparagraph (a), omit from “prepared” to “and shall be”.

(7) In paragraph 6—

- (a) for “National regulatory authorities” substitute “The regulatory authority”; and
- (b) for the words from “the tariffs” to the end, substitute “the tariffs of transmission system operators or the methodologies used to calculate them”.

(8) For paragraph 7, substitute—

“7. In so far as an investment for enabling or enhancing bi-directional capacity is not required by the market but is considered to be necessary for security of gas supply purposes and where that investment incurs costs in the United Kingdom and a member State or in the United Kingdom for the benefit of a member State, the regulatory authority must endeavour to take a coordinated decision on cost allocation with the national regulatory authorities of the member States concerned before any investment decision is taken.

The cost allocation must take into account the proportion of the benefits of the infrastructure investments for the increase of the security of gas supply in the United Kingdom as well as investments already made in the infrastructure in question.

The cost allocation must not unduly distort competition and the effective functioning of the market in the United Kingdom and must seek to avoid any undue distortive effect on the market.”.

(9) In paragraph 8—

- (a) for each occurrence of “competent authority” substitute “Secretary of State”; and
- (b) in the second subparagraph, omit from “and the single largest gas infrastructure” to the end.

(10) Omit paragraph 9.

6.—(1) Article 6 is amended as follows.

(2) In paragraph 1—

- (a) for each occurrence of “competent authority” substitute “Secretary of State”;
- (b) in the first subparagraph, in the words before point (a), for “the natural gas undertakings that it identifies, to take measures to ensure the gas supply to the protected customers of the Member State” substitute “natural gas undertakings to take measures to ensure the gas supply to protected customers”;
- (c) omit the second subparagraph;
- (d) in the fourth subparagraph, for “Article 9(4) to (9)” substitute “Article 9(4) and (5)”;
- (e) in the fifth subparagraph—
 - (i) for “Member States may comply” substitute “Compliance”; and
 - (ii) after “the first subparagraph” insert “may be”.

(3) In paragraph 2—

- (a) in the first subparagraph, omit points (b) and (c);
- (b) omit the second subparagraph; and
- (c) in the third subparagraph for “Article 9(4) to (9)” substitute “Article 9(4) and (5)”.

(4) In paragraph 3, for each occurrence of “competent authority” substitute “Secretary of State”.

(5) Omit paragraph 5.

(6) In paragraph 6—

- (a) for “competent authorities” substitute “Secretary of State”; and
- (b) for “internal energy market” substitute “energy market in the United Kingdom”.

7.—(1) Article 7 is amended as follows.

(2) Omit paragraphs 1 and 2.

(3) In paragraph 3—

- (a) in the first sentence—
 - (i) for “competent authority of each Member State” substitute “Secretary of State”;
 - (ii) after “gas supply” insert “in the United Kingdom”; and
- (b) omit the second sentence.

(4) In paragraph 4—

- (a) in the words before subparagraph (a)—
 - (i) for “assessments” substitute “assessment”;
 - (ii) for “paragraphs 2 and 3” substitute “paragraph 3”;
- (b) in subparagraph (a)—
 - (i) omit “and where appropriate include a calculation of the N – 1 formula at regional level”;
 - (ii) omit “, including where applicable those for the calculation of the N - 1 formula at regional level.”;

- (c) in subparagraph (b), for “the Member States concerned” substitute “the transmission systems of Great Britain and Northern Ireland”;
 - (d) in subparagraph (c), in point (ii), for “third country suppliers” substitute “outside the United Kingdom”;
 - (e) omit subparagraph (d); and
 - (f) in subparagraph (e), for “Union law” substitute “retained EU law”.
- (5) In paragraph 5—
- (a) in the first sentence—
 - (i) for “common and national risk assessments” substitute “national risk assessment”;
 - (ii) omit “relevant”;
 - (iii) omit “TV or”; and
 - (b) in the second sentence, for “Member States” substitute “the Secretary of State”.
- (6) In paragraph 6, for the words from “as well as” to the end, substitute “, the Northern Ireland department and the regulatory authority, must cooperate with the Secretary of State and provide the Secretary of State upon request with all necessary information for the national risk assessment”.
- (7) In paragraph 7—
- (a) omit the first sentence;
 - (b) for the second sentence substitute “The risk assessments must be updated by 1st October 2022 and every four years thereafter unless circumstances warrant more frequent updates.”; and
 - (c) in the third sentence, omit “of country-specific”.
- 8.—**(1) Article 8 is amended as follows.
- (2) In paragraph 1—
- (a) after “distort competition” insert “in the United Kingdom”; and
 - (b) for the words from “internal market” to the end, substitute “gas market in the United Kingdom”.
- (3) In paragraph 2—
- (a) in the words before subparagraph (a)—
 - (i) for “The competent authority of each Member State shall” substitute “The Secretary of State must”;
 - (ii) for “, where it is not the competent authority, the national regulatory authority,” substitute “the regulatory authority”;
 - (b) in subparagraph (a)—
 - (i) omit “common and”; and
 - (ii) for “nationals” substitute “national”.
- (4) Omit paragraphs 3 and 4.
- (5) Omit paragraph 6.
- (6) In paragraph 7—
- (a) in the first subparagraph—
 - (i) in the first sentence, omit “and notified to the Commission”;
 - (ii) omit the second sentence; and
 - (b) omit the second subparagraph.
- (7) Omit paragraphs 8, 9, and 10.
- (8) Omit paragraph 12.

9.—(1) Article 9 is amended as follows.

(2) In paragraph 1, in the first subparagraph—

(a) for point (b) substitute—

“(b) the definition of protected customers, the annual gas consumption volumes of the protected customers and the percentage that those consumption volumes represent of the total annual final gas consumption in the United Kingdom;

(ba) where the definition of protected customers includes the categories referred to in point (5)(a) or (b) of Article 2, the gas consumption volumes corresponding to customers belonging to those categories and the percentage that each of those groups of customers represents in total final gas consumption;”;

(b) in point (c)—

(i) omit “the identification of the single largest gas infrastructure of common interest in the case of the application of Article 5(3),”;

(ii) omit “including any justification showing compliance with the conditions laid down in Article 6(2);” and

(iii) omit “or additional obligation in accordance with Article 11(3)”;

(c) in point (e), for “neighbouring Member States” substitute “the United Kingdom and neighbouring relevant States”;

(d) in point (g), for “internal energy market as well as national markets” substitute “energy market in the United Kingdom”;

(e) in point (i), for “cooperation with other Member States” substitute “endeavouring to cooperate with member States”; and

(f) in point (j), for “the internal market” substitute “the market in member States”.

(3) At the end of paragraph 1, insert as a new subparagraph—

“For the purposes of point (e) of the first subparagraph, “neighbouring relevant States” means Belgium, Denmark, France, Germany, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain and Sweden.”.

(4) Omit paragraph 2.

(5) In paragraph 3, for “internal market in gas” substitute “market in gas in the United Kingdom”.

(6) In paragraph 4, for “Member States, and in particular their competent authorities,” substitute “The Secretary of State”.

(7) In paragraph 5—

(a) for “competent authority” substitute “Secretary of State”; and

(b) omit the words from “, and shall notify” to the end.

(8) Omit paragraphs 6 to 10.

(9) In paragraph 11, in the first sentence, omit “or at the Commission’s request”.

10.—(1) Article 10 is amended as follows.

(2) In paragraph 1, in the first subparagraph—

(a) in point (b)—

(i) for “competent authorities” substitute “Secretary of State”;

(ii) for “national regulatory authorities” substitute “regulatory authority”;

(b) in point (c), for “competent authorities” substitute “Secretary of State”;

(c) in point (i), omit “, or for the application of Article 13”;

(d) omit point (j);

(e) omit points (m) and (n); and

(f) in point (o), for “Member States and/or natural gas undertakings” substitute “the United Kingdom and member States, or between natural gas undertakings”.

(3) In paragraph 1, in the second subparagraph, for “, or during the application of the measures referred to in Article 11(3) and Article 13, the competent authority of the Member State concerned” substitute “the Secretary of State”.

(4) In paragraph 2—

(a) in the first sentence, omit “or at the Commission’s request”; and

(b) for the third sentence substitute “Article 8(5), (7) and (11) apply to the updated plan.”.

(5) In paragraph 3—

(a) for “competent authority” substitute “Secretary of State”; and

(b) omit the third sentence.

11.—(1) Article 11 is amended as follows.

(2) Omit paragraphs 2 and 3.

(3) For paragraph 4, substitute—

“4. When an emergency is declared the Secretary of State must follow the pre-defined action as set out in the emergency plan. In duly justified exceptional circumstances, the Secretary of State may take action deviating from the emergency plan.”.

(4) Omit paragraph 5.

(5) In paragraph 6—

(a) in the words before subparagraph (a), for “Member States and, in particular, the competent authorities” substitute “Secretary of State”; and

(b) omit subparagraphs (a) and (b).

(6) In paragraph 7—

(a) in the first subparagraph, for “a Member State” substitute “the Secretary of State”;

(b) in the second subparagraph, for “Member States” substitute “The Secretary of State”; and

(c) omit the third subparagraph.

(7) Omit paragraphs 8 and 9.

12. Omit Articles 12 and 13.

13.—(1) Article 14 is amended as follows.

(2) In paragraph 1—

(a) for the words from “Where a Member State” to “Article 11(1)” substitute “Where one of the crisis levels referred to in Article 11(1) has been declared”; and

(b) for “competent authority of the Member State concerned” substitute “Secretary of State”.

(3) Omit paragraphs 2 and 3.

(4) In paragraph 4—

(a) in the first sentence—

(i) for “competent authority of the most affected Member State” substitute “Secretary of State”;

(ii) for “the Member State or other Member States” substitute “the United Kingdom”;
and

(b) omit the second sentence.

(5) Omit paragraph 5.

(6) In paragraph 6, in the first subparagraph—

(a) in the words before point (a)—

- (i) for “competent authorities and the Commission” substitute “Secretary of State”;
 - (ii) omit “at national, regional and Union level.”;
- (b) in point (a)—
- (i) for “competent authority concerned” substitute “Secretary of State”;
 - (ii) in subpoint (vii), for “most affected Member State” substitute “United Kingdom”;
- (c) in point (b), in the first sentence—
- (i) for “competent authority of the most affected Member State” substitute “Secretary of State”;
 - (ii) for “that Member State” substitute “the United Kingdom”; and
- (d) in point (b), in the second sentence, for “shall notify the competent authority” substitute “must notify the Secretary of State”.
- (7) In paragraph 6, in the second subparagraph—
- (a) omit the first sentence;
 - (b) in the second sentence, for “shall be notified” substitute “must be notified to the Secretary of State”; and
 - (c) omit the third sentence.
- (8) In paragraph 7, in the first sentence—
- (a) for “competent authority of the most affected Member State or the Commission” substitute “Secretary of State”; and
 - (b) for “a Member State, of a region or of the Union, the competent authority of the Member State or the Commission” substitute “the United Kingdom, the Secretary of State”.
- (9) Omit paragraph 8.
- (10) For paragraph 9, substitute—
- “9. The Secretary of State must take into account the information received under this Article in the preparation of the risk assessment, preventative action plan and emergency plan or their respective updates.”.
- (11) Omit paragraphs 10 and 11.
- (12) In paragraph 12—
- (a) in the first sentence, for “as well as the respective assessments by the competent authorities or the Commission” substitute “by the Secretary of State”; and
 - (b) in the second sentence, for “competent authorities and the Commission” substitute “Secretary of State”.
- 14.—**(1) Article 15 is amended as follows.
- (2) In paragraph 1, for “Article 14(4) to (8), and Article 18 excluding the results of the assessments referred to in Article 14(3) and (5)” substitute “Article 14(4), (6) and (7)”.
- (3) In paragraph 2—
- (a) omit subparagraphs (a) and (b);
 - (b) in subparagraph (c), for “persons who work or who have worked for the competent authorities and the national regulatory authorities” substitute “the Secretary of State and persons who are authorised or who have been authorised to represent the Secretary of State and the regulatory authority”; and
 - (c) in subparagraph (d), for “competent authorities and national regulatory authorities” substitute “the Secretary of State and the regulatory authority”.
- (4) In paragraph 3, for “Union” substitute “retained EU”.
- (5) In paragraph 4, in the first sentence, for “the Commission, the competent authorities and the national regulatory authorities” substitute “the Secretary of State, the regulatory authority”.

15. Omit Articles 16 to 18.

16. Omit Articles 20 and 21.

17. In the words after Article 22 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

18. Omit Annex I.

19.—(1) Annex II is amended as follows.

(2) In point 3, in the definition of ‘calculated area’, for “competent authority” substitute “Secretary of State”.

(3) Omit point 5.

20.—(1) Annex III is amended as follows.

(2) For point 1, substitute—

“1. For the execution of the provisions set out in this Annex the regulatory authority may act on behalf of the Secretary of State if so decided by the Secretary of State.”.

(3) In point 2—

(a) in the first subparagraph, for the words from “transmission system operators” to “potentially concerned” substitute “the transmission system operator on the side of the interconnection in the United Kingdom must submit to the Secretary of State and the regulatory authority after consulting with all transmission system operators potentially concerned”; and

(b) for the second subparagraph, substitute “The transmission system operator in the United Kingdom must endeavour to submit a joint proposal or request for exemption with the transmission system operators on the other side of the interconnection.”.

(4) In point 3—

(a) for “competent authorities concerned shall without delay consult” substitute “Secretary of State must without delay endeavour to consult”;

(b) for “Member State” substitute “member State”; and

(c) omit “, the Agency and the Commission”.

(5) For point 4, substitute—

“4. The regulatory authority must within six months of receipt of the joint proposal, pursuant to Article 5(6) and (7), after consulting the project promoters concerned, endeavour to take a coordinated decision with the national regulatory authorities of the member States concerned on the cross-border allocation of investment costs to be borne by each transmission system operator of the project. Where the regulatory authority and the national regulatory authorities concerned have not reached an agreement within that deadline, the regulatory authority must inform the Secretary of State without delay.”.

(6) In point 5—

(a) in the first sentence—

(i) for “competent authorities concerned” substitute “Secretary of State”;

(ii) for “internal gas market” substitute “gas market in the United Kingdom”;

(iii) for “take a coordinated decision” substitute “endeavour to take a coordinated decision with the competent authorities of the member States concerned within two months”;

(b) omit the second sentence;

(c) in the third sentence, for “regulatory authorities concerned” substitute “the regulatory authority”;

- (d) after the third sentence, insert “The two month period may be extended by agreement between the Secretary of State and the competent authorities of the member States concerned.”;
- (e) in the last sentence—
 - (i) in subparagraph (a), for “prepared by the regulatory authorities concerned” substitute “prepared by the regulatory authority and the national regulatory authorities of the member States concerned, provided such coordinated decision has been reached”;
 - (ii) in subparagraph (b), for “any relevant Member State” substitute “the United Kingdom or any relevant member State,”; and
 - (iii) for subparagraph (c), substitute—
 - “(c) request the transmission system operators in the United Kingdom to amend and resubmit their proposal or exemption request within a maximum period of four months although any proposal or exemption request may only be considered a total of three times, before a fresh proposal or exemption is required.”.
- (7) Omit points 6 to 11.
- (8) In point 12—
 - (a) for “Commission, the Agency,” substitute “Secretary of State”; and
 - (b) omit “the competent authorities”.
- (9) In point 13, for “Commission or other concerned Member State” substitute “concerned member State”.

21. Omit Annex IV.

22.—(1) Annex V is amended as follows.

- (2) For the words before point 1 from “Name of the competent authority” to “risk assessment” substitute “The Secretary of State has prepared this risk assessment in relation to security of gas supply in the United Kingdom”.
- (3) In point 1—
 - (a) omit point 1.1; and
 - (b) in point 1.2—
 - (i) at the beginning, omit “1.2”; and
 - (ii) for “the Member State” substitute “the United Kingdom”.
- (4) In point 2—
 - (a) in point 2(a)(ii), for “at national level” substitute “for the United Kingdom”;
 - (b) in point 2(a)(vii), for “Member State” substitute “Secretary of State”; and
 - (c) omit point 2(a)(viii).
- (5) In point 3—
 - (a) for each occurrence of “the Member State” substitute “the United Kingdom”;
 - (b) in the second subparagraph—
 - (i) in the words before point (a), for “competent authority” substitute “Secretary of State”;
 - (ii) in point (a), for “gas disruption from third countries” substitute “gas disruption from countries outside of the United Kingdom”; and
 - (iii) in point (c), for “agreements with third-country suppliers” substitute “agreements with suppliers outside of the United Kingdom”.
- (6) In point 5, omit “common risk assessment the Member States has been involved in, including the identification of”.

23.—(1) Annex VI is amended as follows.

(2) Under the heading “General Information”, for the words from “Member States” to “plan” substitute “The Secretary of State has prepared this plan for the United Kingdom”.

(3) In point 1—

- (a) omit point 1.1;
- (b) in point 1.2—
 - (i) at the beginning, omit “1.2”;
 - (ii) in the words before point 1.2(a), for “per Member State” substitute “for the United Kingdom”;
 - (iii) in points 1.2(b) and 1.2(d), omit “at national level”; and
 - (iv) in point 1.2(e), for “the Member State” substitute “the United Kingdom”.

(4) In point 2, omit “common and national”.

(5) In point 3—

- (a) omit point 3.1;
- (b) in point 3.2—
 - (i) omit the heading “National level”;
 - (ii) in point 3.2(a)(ii), omit “at national level”;
 - (iii) in point 3.2(a)(v), for “Member State” substitute “Secretary of State”; and
 - (iv) omit point 3.2(a)(vi).

(6) In point 4—

- (a) in point 4(d)(vi), for the third point preceded by a dash, substitute—
“— provide an analysis of the impact of the measure on the national market.”; and
- (b) omit point 4(e)(ii).

(7) In point 5—

- (a) in point 5(a)—
 - (i) in point 5(a)(i), omit “or regional”;
 - (ii) omit “— measures to enhance interconnections between neighbouring Member States.”;
- (b) in point 5(b), omit “of the relevant risk group(s) Member State”; and
- (c) in point 5(c)(iii), for the third point preceded by a dash, substitute—
“— provide an analysis of the impact of the measure on the national market;
— explain the extent to which efficiency measures, including on the demand side, have been considered to increase the security of supply;
— explain the extent to which renewable energy sources have been considered to increase the security of supply.”.

(8) In point 7—

- (a) in point 7(a)—
 - (i) omit “, including Projects of Common Interests in the relevant risk groups”;
 - (ii) for “the risk group” substitute “the United Kingdom”; and
- (b) omit point 7(b).

(9) In point 9(d), for “national regulatory authority” substitute “the regulatory authority”.

(10) In point 10, in the heading, for “Regional dimension” substitute “Additional matters”.

(11) Omit points 11.1, 11.2 and 11.3.

24.—(1) Annex VII, is amended as follows.

(2) For “Name of the competent authority” to “plan” substitute “The Secretary of State is responsible for the preparation of the present plan for the United Kingdom”.

(3) In point 5(a)—

(a) for “competent authorities” substitute “relevant authorities”; and

(b) omit “national”.

(4) In point 5(b), for “competent authorities” substitute “relevant authorities”.

(5) Omit point 8.

25.—(1) Annex VIII is amended as follows.

(2) In the words preceding point (a), for “competent authority” substitute “Secretary of State”.

(3) In point (a), in the second point preceded by a dash, omit “(e.g. in accordance with Council Directive 2009/119/EC)”.

26. Omit Annex IX.

SCHEDULE 2

Regulation 4

Amendments to the Balancing Code

1.—(1) Article 2 is amended as follows.

(2) In paragraph 1, for “within the borders of the Union”, substitute “to the extent that they are within the United Kingdom or the UK marine area, and taking into account the specific nature of interconnectors”.

(3) In paragraph 2—

(a) at the beginning, insert “To the extent they fall within the United Kingdom or the UK marine area,”;

(b) for “in Member”, substitute “of member”; and

(c) after “2009/73/EC, insert “as it has effect in EU law, unless the national regulatory authority and the member State agree otherwise”.

(4) In paragraph 4—

(a) omit “under the applicable national rules and”; and

(b) after “gas supply”, insert “and other applicable national rules”.

(5) After paragraph 5, insert—

“6. To the extent it falls within the United Kingdom or the UK marine area, this Regulation does not apply to the balancing zone of another country that is not a member State unless the national regulatory authority determines otherwise.

7. If a transmission system operator is regulated by both national regulatory authorities, where relevant they must cooperate with each other regarding the regulation of that transmission system operator.

8. If a transmission system operator is regulated by a national regulatory authority and a non-UK regulatory authority, where relevant the national regulatory authority must endeavour to cooperate with the non-UK regulatory authority regarding the regulation of that transmission system operator.

9. Any reference to an adjacent balancing zone in this Regulation includes a balancing zone outside the United Kingdom or the UK marine area.”.

2. After Article 1, insert—

“Article 2A

Obligations on transmission system operators

1. In any case where a transmission system operator cannot comply with an obligation set out in this Regulation without the cooperation of a non-UK TSO, the obligation must be interpreted as a requirement on the transmission system operator to—

- (a) comply with the obligation in so far as it is able to do so without the cooperation of the non-UK TSO; and
- (b) endeavour to cooperate with the non-UK TSO in order to comply with that obligation.

2. Paragraph 1 applies so that obligations that apply to transmission system operators at an interconnection point apply to a transmission system operator that is adjacent to a non-UK TSO at an interconnection point.”.

3.—(1) Article 3 is amended as follows.

(2) In the words before point (1)—

- (a) after “715/2009,”, insert “and”;
- (b) omit “as well as Article 2 of Directive 2009/73/EC”.

(3) In point (1), at the end insert “to the extent that the entry-exit system is part of the transmission system of Great Britain or Northern Ireland, or in the United Kingdom and the UK marine area;”.

(4) After point (21), insert—

“(22) the UK marine area’ has the same meaning given in section 42 of the Marine and Coastal Access Act 2009(a).”.

4.—(1) Article 7(7) is amended as follows.

(2) After “transmission system operators”, insert “must cooperate with each other and must endeavour to cooperate with non-UK TSOs”.

(3) After “balancing zones”, omit “shall cooperate”.

5.—(1) Article 14 is amended as follows.

(2) In paragraph 1, for “13:00 UTC (winter time) or 12:00 UTC (daylight saving)”, substitute “1.00 p.m.”.

(3) In paragraph 3, for “15:00 UTC (winter time) or 14:00 UTC (daylight saving)”, substitute “3.00 p.m.”.

(4) In paragraph 4—

- (a) in point (b), for “12:00 UTC (winter time) or 11:00 UTC (daylight saving)”, substitute “12.00 p.m.”; and
- (b) in point (c), for “12:30 UTC (winter time) or 11:30 UTC (daylight saving)”, substitute “12.30 p.m.”.

6.—(1) Article 16 is amended as follows.

(2) In paragraph 1(a), after “transmission system operators”, insert “, non-UK TSOs”.

(3) In paragraph 2, for “shall”, substitute “may”.

7.—(1) Article 26 is amended as follows.

(2) In paragraph 4—

- (a) after “national regulatory authorities”, insert “the non-UK regulatory authorities in adjacent balancing zones,”; and
- (b) after “transmission system operators”, insert “and non-UK TSOs”.

(3) In paragraph 6, omit “, and send it to ENTSOG for information”.

(a) 2009 c. 19

- 8.**—(1) Article 27(2) is amended as follows.
- (2) For “with the national regulatory authorities”, substitute “with the other national regulatory authority and the non-UK regulatory authorities”.
- (3) For “Member States”, substitute “balancing zones”.
- (4) Omit the last sentence.
- 9.** Omit Article 28.
- 10.** In Article 33(1), omit point (g).
- 11.** In Article 34(3), for “17:00 UTC (winter time) or 16:00 UTC (daylight saving)”, substitute “5.00 p.m.”.
- 12.**—(1) Article 36 is amended as follows.
- (2) In paragraph 1(a), for “12:00 UTC (winter time) or 11:00 UTC (daylight saving)”, substitute “12.00 p.m.”.
- (3) In paragraph 2, for “13:00 UTC (winter time) or 12:00 UTC (daylight saving)”, substitute “1.00 p.m.”.
- 13.** In Article 46(4), omit the second sentence.
- 14.**—(1) Article 47 is amended as follows.
- (2) In paragraph 2—
- (a) after “between the transmission system operators”, insert “and non-UK TSOs”; and
- (b) for “it shall be operated by the transmission system operators concerned”, substitute “the concerned transmission system operators must endeavour to operate it in cooperation with any concerned non-UK TSOs”.
- (3) In paragraph 3, for “submitting”, substitute “making”.
- 15.** Omit Articles 51 and 52.
- 16.** In Article 53, for “28, 33(5), 38(1), 45(4), 46(3), 51 and 52”, substitute “33(5), 45(4) and 46(3)”.
- 17.** In the text after Article 53, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

SCHEDULE 3

Regulation 5

Amendments to the Interoperability Code

- 1.**—(1) Article 1 is amended as follows.
- (2) In paragraph 1, omit “harmonised”.
- (3) In paragraph 2—
- (a) omit “Article 18 shall apply to transmission systems.”; and
- (b) for the last sentence, substitute “This Regulation does not apply at entry points from and exit point to another country that is not a member State unless the national regulatory authority determines otherwise.”.
- (4) In paragraph 3—
- (a) for “between Member States as long as one of these Member States”, substitute “with a member State that”;
- (b) after “2009/73/EC”, insert “as it has effect in EU law”; and
- (c) for “respective Member States”, substitute “national regulatory authority and the member State”.

(5) After paragraph 3, insert—

“4. If a transmission system operator is regulated by both national regulatory authorities, where relevant they must cooperate with each other regarding the regulation of that transmission system operator.

5. If a transmission system operator is regulated by a national regulatory authority and a non-UK regulatory authority, where relevant the national regulatory authority must endeavour to cooperate with the non-UK regulatory authority regarding the regulation of that transmission system operator.

6. The interconnection points within the scope of this Regulation are those where transmission system operators or network users carry out functions or activities that are regulated by a national regulatory authority.”.

2. After Article 1, insert—

“Article 1A

Obligations on transmission system operators

1. In any case where a transmission system operator cannot comply with an obligation set out in this Regulation without the cooperation of a non-UK TSO, the obligation must be interpreted as a requirement on the transmission system operator to—

- (a) comply with the obligation in so far as it is able to do so without the cooperation of the non-UK TSO; and
- (b) endeavour to cooperate with the non-UK TSO in order to comply with that obligation.

2. Paragraph 1 applies so that obligations that apply to “adjacent TSOs”, or that otherwise apply to transmission system operators at an interconnection point, apply to a transmission system operator that is adjacent to a non-UK TSO at an interconnection point.”.

3.—(1) Article 2 is amended as follows.

(2) In the words before point (a)—

- (a) after “984/2013,”, insert “and”; and
- (b) omit “as well as in Article 2 of Directive 2009/73/EC”.

(3) In point (g), for “adjacent transmission system operators”, substitute “adjacent TSOs”.

4. In Article 3, for “adjacent transmission system operators”, substitute “adjacent TSOs”.

5.—(1) Article 4(3) is amended as follows.

- (2) Omit “and to EntsoG”.
- (3) Omit “of the Member State”.

6. Omit Article 5.

7.—(1) Article 6 is amended as follows.

- (2) For “adjacent transmission system operators”, substitute “adjacent TSOs”, each time it appears.
- (3) In paragraph 4(a), omit “national or Union”.
- (4) In paragraph 4(b), after “Council”, insert “as it has effect in EU law immediately before exit day”.

8.—(1) Article 7 is amended as follows.

- (2) For “adjacent transmission system operators” substitute “adjacent TSOs”, each time it appears.

(3) In paragraph 1(b), for “adjacent transmission system operator(s)”, substitute “adjacent TSOs”.

(4) In paragraph 2, after “national regulations”, insert “and the regulations of other countries or territories”.

(5) In paragraph 3(h), for the words “adjacent transmission system operator(s)” to the end, substitute “adjacent TSOs who operate the measurement equipment to the other adjacent TSOs”.

(6) In paragraph 4(b), omit “in the version applicable at the time”.

9. In Article 8, each time it appears, for “adjacent transmission system operators”, substitute “adjacent TSOs”.

10.—(1) Article 9 is amended as follows.

(2) For “adjacent transmission system operators”, substitute “adjacent TSOs” each time it appears.

(3) In paragraph 2, for “adjacent transmission system operator(s)”, substitute “adjacent TSOs”.

(4) In paragraph 3, for “by each adjacent transmission system operator”, substitute “ by each adjacent TSO”.

11.—(1) Article 10 is amended as follows.

(2) In paragraph 1, for “adjacent transmission system operators”, substitute “adjacent TSOs”.

(3) In paragraph 2, for “adjacent transmission system operator(s)”, substitute “adjacent TSOs”.

12.—(1) Article 11 is amended as follows.

(2) In paragraph 1, for “adjacent transmission system operators”, substitute “adjacent TSOs”.

(3) Omit paragraph 2.

13. In Article 12, for “adjacent transmission system operators”, substitute “adjacent TSOs” both times it appears.

14. For Article 13(3), substitute—

“3. If at any time the United Kingdom is connected to only one member State, or connected to a country or territory that is not connected to a member State, the adjacent TSOs at the relevant interconnection points and the parties they communicate with may agree to continue to use other reference conditions for data exchange in connection with Regulation (EC) No 715/2009 on conditions for access to natural gas transmission networks, subject to the approval of the national regulatory authority.”.

15. In Article 14, omit the words from “based on” to the end.

16.—(1) Article 15 is amended as follows.

(2) In paragraph 1, after “cooperate”, insert “with each other and must endeavour to cooperate with non-UK TSOs”.

(3) In paragraph 2—

(a) in the words before point (a)—

(i) for “national regulatory authorities, those authorities”, substitute “national regulatory authority, it”;

(ii) after “require the”, insert “concerned”;

(b) in point (e)—

(i) for “their respective national regulatory authorities”, substitute “the national regulatory authority”;

(ii) omit “of each involved member State”;

(c) after point (e), insert—

“In performing the actions referred to in points (a) to (e), the concerned transmission system operators must endeavour to cooperate with the concerned non-UK TSOs.”; and

(d) in the words after point (e), after “transmission system operators”, insert “and concerned non-UK TSOs”.

(4) In paragraph 3—

(a) for “each national”, in both places it occurs, substitute “the national”;

(b) after “consult the”, for “national”, substitute “non-UK”;

(c) for “Member States”, substitute “countries or territories”; and

(d) after “adjacent”, for “national”, substitute “non-UK”.

(5) After paragraph 3, insert—

“4. If both national regulatory authorities are concerned, they must cooperate with each other, and references in paragraphs 2 and 3 to “the national regulatory authority” are to be read as references to “the national regulatory authorities”. ”.

17. In Article 16, omit the last sentence.

18. Omit Article 18.

19.—(1) Article 19 is amended as follows.

(2) In paragraph 1—

(a) for “national authorities”, substitute “the national regulatory authority”;

(b) for “the authorities”, substitute “the national regulatory authority”;

(c) after “operators to”, insert “endeavour to”;

(d) for “adjacent transmission system operators”, substitute “adjacent TSOs”; and

(e) for “their respective national authorities”, substitute “the national regulatory authority”.

(3) In paragraph 2—

(a) for “national authorities agree”, substitute “national regulatory authority considers”;

(b) for “adjacent transmission system operators”, substitute “adjacent TSOs”; and

(c) for “with national authorities”, substitute “with the national regulatory authority”.

(4) In paragraph 3—

(a) in point (e)—

(i) for “the feasible” substitute “any feasible”;

(ii) for “national authorities”, substitute “national regulatory authority”;

(b) in the words after point (e)—

(i) for “Once”, substitute “If”; and

(ii) for “national authorities”, substitute “national regulatory authority”.

(5) In paragraph 4—

(a) for “national authorities do”, substitute “national regulatory authority does”;

(b) after “paragraph 2,”, insert “the concerned transmission system operators shall endeavour to implement”;

(c) after “flow of non-odourised gas”, omit “shall be implemented”; and

(d) for “by the national authorities”, substitute “by the national regulatory authority”.

(6) After paragraph 4, insert—

“5. In performing their functions set out in this Article, the concerned transmission system operators must endeavour to cooperate with the concerned non-UK TSOs.

6. Before determining whether to grant approval under paragraphs (1), (3) or (4) of this Article, the national regulatory authority must endeavour to cooperate with the concerned non-UK regulatory authorities with a view to reaching a joint decision.

7. If both national regulatory authorities are concerned, they must cooperate with each other, and references in paragraphs 1, 2, 3, 4 and 6 to “the national regulatory authority” are to be read as references to “the national regulatory authorities”.

20.—(1) Article 21 is amended as follows.

(2) In paragraph 2—

- (a) in point (a)(ii), omit the last sentence; and
- (b) in point (b)(ii), omit the last sentence.

(3) Omit paragraph 3.

21. In Article 23, omit “of the transmission system operator”.

22. Omit Article 24.

23. For the text of Article 25, substitute—

“Article 25

Implementation monitoring

If immediately before exit day a transmission system operator has not complied with its obligations under Article 25(2) of this Regulation as it has effect in EU law, the obligations under that paragraph continue to apply.”.

24. In Article 26, in the second paragraph, omit “without prejudice to Article 5”.

25. In the text after Article 26, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

SCHEDULE 4

Regulation 6

Amendments to the Capacity Allocation Mechanisms Code

1. In Article 1, in the second sentence, for “This Regulation shall set out how adjacent transmission system operators cooperate in”, substitute “This Regulation set outs how transmission system operators cooperate with adjacent TSOs in”.

2.—(1) Article 2 is amended as follows.

(2) In paragraph 1—

- (a) at the end of the first sentence, insert “where transmission system operators carry out functions or activities that are regulated by a national regulatory authority”; and
- (b) in the second sentence, for “third”, substitute “other”.

(3) In paragraph 2, in the first sentence—

- (a) for “set up in accordance with”, substitute “provided for in”; and
- (b) omit “within the Union”.

(4) In paragraph 3, for the second sentence, substitute—

“This Regulation does not apply to interconnection points where, immediately before exit day, either the UK or relevant member State held a derogation on the basis of Article 49 of Directive 2009/73/EC(a), as it had effect in EU law.”.

(a) Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC J L 211 14.8.2009, p.94-136.

(5) In paragraph 6, omit “within a Member State”.

3.—(1) Article 3 is amended as follows.

(2) In the words before paragraph 1, omit “and Article 2 Directive 2009/73/EC”.

(3) In paragraph 13, for “adjacent transmission system operators”, substitute “a transmission system operator with an adjacent TSO”.

(4) In paragraph 15, for “by ENTSOG”, substitute “jointly by, or on behalf of, all transmission system operators”.

(5) In paragraph 16, for “5.00 to 5.00 UTC the following day for winter time and from 4.00 to 4.00 UTC the following day when daylight saving is applied”, substitute “5.00 a.m. to 5.00 a.m. the following day”.

(6) After paragraph 25, insert—

“26. ‘non-UK regulatory authority’ means a regulatory authority for a country or territory other than the UK.

27. ‘adjacent TSO’ means a transmission system operator or a non-UK TSO which operates a transmission system which is directly connected to a transmission system operated by the relevant transmission system operator.”.

4.—(1) Article 4 is amended as follows.

(2) For “adjacent transmission system operator(s)”, substitute “adjacent TSOs”.

(3) At the end of the Article, insert “Where an adjacent TSO is a non-UK TSO, the transmission system operator must endeavour to fully cooperate with the non-UK TSO regarding their respective maintenance plans.”.

5. In Article 5, at the end of paragraph 1, insert “Transmission system operators must also endeavour to coordinate this with any adjacent and affected non-UK TSOs.”.

6.—(1) Article 6 is amended as follows.

(2) In paragraph 1(a)(1), in the last sentence, for “Regulation (EU) No 994/2010”, substitute “Regulation (EU) No. 2017/1938”.

(3) In paragraph 1(a)(3), omit “the Union-wide 10-year network development plan pursuant to Article 8 of Regulation (EC) No. 715/2009,”.

(4) In paragraph 1(a)(5)—

(a) omit “adjacent”; and

(b) after “transmission system operators”, add “and non-UK TSOs”.

(5) After paragraph 1(a)(6), insert—

“(7) this in-depth analysis must also take into account any obligations of a non-UK TSO in relation to the Union-wide 10-year network development plan pursuant to Article 8 of Regulation (EC) No 715/2009(a) as it has effect in EU law.”.

(6) Before paragraph 2, insert—

“1A. In relation to interconnection points at which any adjacent TSO is a non-UK TSO, transmission system operators must comply with paragraph 1 in so far as they are able to do so and must endeavour to cooperate with the non-UK TSO to comply with paragraph 1.”.

(7) In paragraph 2, omit the words from “Article 42” to the end.

(8) Omit paragraph 4.

7.—(1) Article 7 is amended as follows.

(2) In paragraph 1—

(a) Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 OJ L 211, 14.8.2009, p. 36-54.

- (a) omit “Adjacent”;
 - (b) for “exchange”, substitute “provide”; and
 - (c) after “regular basis”, insert “to their adjacent TSOs.”.
- (3) In paragraph 2—
- (a) omit “adjacent”;
 - (b) for “exchange”, substitute “provide”;
 - (c) after “individual transmission network”, insert “to their adjacent TSOs”; and
 - (d) for the last sentence, substitute “Transmission system operators must integrate the procedures to exchange data in their respective interconnection agreement. Where an adjacent TSO is a non-UK TSO, transmission system operators must endeavour to integrate the procedures in the interconnection agreement.”.

8.—(1) Article 8 is amended as follows.

(2) For paragraph 2, substitute—

“2. At all interconnection points the same auction design is to apply. The relevant auction processes are to start simultaneously for all concerned interconnection points. Each auction process, relating to a single standard capacity product, must allocate capacity independently of every other auction process except where incremental capacity is offered or where, subject to the agreement of the directly involved transmission system operators and, if applicable, agreement of any directly involved non-UK TSO, and the approval of the national regulatory authorities, competing capacity is allocated. In considering whether to grant approval, the national regulatory authorities must consider any representations made by a non-UK regulatory authority of any adjacent and affected country. In case incremental capacity is offered, the independent allocation is not to apply to the simultaneous auction processes for the respective offer levels, since these are dependent on each other, as only one offer level can be allocated.”.

(3) In paragraph 9, after the first sentence, insert “If there is a directly involved non-UK TSO, transmission system operators must endeavour to cooperate with the non-UK TSO to agree on alignment.”.

9. In Article 11, in paragraph 9, for “8.00 UTC to 17.00 UTC (winter time) or 7.00 UTC to 16.00 UTC (daylight saving)”, substitute “8.00 a.m. to 5.00 p.m.”.

10. In Article 12, in paragraph 7, for “8.00 UTC to 17.00 UTC (winter time) or 7.00 UTC to 16.00 UTC (daylight saving)”, substitute “8.00 a.m. to 5.00 p.m.”.

11. In Article 13, in paragraph 7, for “8.00 UTC to 17.00 UTC (winter time) or 7.00 UTC to 16.00 UTC (daylight saving)”, substitute “8.00 a.m. to 5.00 p.m.”.

12.—(1) Article 14 is amended as follows.

(2) In paragraph 5, for “15.30 UTC (winter time) or 14.30 UTC (daylight saving)”, substitute “3.30 p.m.”.

(3) In paragraph 6, for “15.30 UTC to 16.00 UTC (winter time) or 14.30 UTC to 15.00 UTC (daylight saving)”, substitute “3.30 p.m. to 4.00 p.m.”.

13.—(1) Article 15 is amended as follows.

(2) In paragraph 2—

- (a) for “1.30 UTC (winter time) or 0.30 UTC (daylight saving)”, substitute “1.30 a.m.”; and
- (b) for “5.00 UTC (winter time) or 4.00 UTC (daylight saving)”, substitute “5.00 a.m.”.

(3) In paragraph 3, for “0.30 UTC (winter time) or 23.30 UTC (daylight saving)”, substitute “0.30 a.m.”.

14.—(1) Article 19 is amended as follows.

(2) For “adjacent transmission system operators”, substitute “adjacent TSOs” each time it appears.

(3) For the words before paragraph 1, substitute “Where the adjacent TSOs are transmission system operators, they must jointly offer bundled capacity products, according to the following principles:”.

(4) After paragraph 9(b), insert—

“10. Where adjacent TSOs include a non-UK TSO, the transmission system operator must endeavour to cooperate with the non-UK TSO to jointly offer bundled capacity products according to the principles in paragraphs 1 to 9. For this purpose, references to transmission system operators in paragraphs 1 to 9 are to be read as including that non-UK TSO.”.

(5) Omit the last sentence.

15.—(1) Article 20 is amended as follows.

(2) Omit paragraphs 1 to 3.

(3) In paragraph 4, after “terms and conditions”, insert “under paragraphs 1 to 3 of this Article as it has effect in EU law”.

16.—(1) Article 21(3) is amended as follows.

(2) For “adjacent transmission system operator”, substitute “adjacent TSO”.

(3) For the fifth sentence, substitute “This service must be based on the conversion model developed by ENTSOG under this Article as it has effect in EU law.”.

17. In Article 24, at the end of paragraph 1, insert “If a non-UK TSO is involved, the national regulatory authorities or transmission system operators must endeavour to combine the individual economic test parameters of the involved transmission system operators and non-UK TSO into a combined single economic test.”.

18.—(1) Article 26 is amended as follows.

(2) In paragraph 1—

(a) for “shall cooperate”, substitute “must cooperate with adjacent TSOs”; and

(b) for the last sentence, substitute “Where an adjacent TSO is a non-UK TSO, transmission system operators must endeavour to cooperate in these processes.”.

(3) At the end of paragraph 2, insert “Where the market demand report concerns any non-UK TSOs, the concerned transmission system operators must endeavour to produce that report in common with the non-UK TSOs.”.

(4) In paragraph 3, omit “in one or more official languages of the Member State and to the extent possible in English”.

(5) Omit paragraph 4.

(6) For paragraph 12(a), substitute—

“(a) the obligation on any concerned non-UK TSOs to take into account whether the Union-wide 10-year network development plan identifies a physical capacity gap whereby a specific region is undersupplied in a reasonable peak scenario and where offering incremental capacity at the interconnection point in question could close the gap; or any UK network development plan or national network development plan relevant to a concerned non-UK TSO identifies a concrete and sustained physical transport requirement;”.

19.—(1) Article 27 is amended as follows.

(2) In paragraph 3—

(a) omit “in one or more official languages of the Member State and to the extent possible in English”;

- (b) after the first sentence, insert “If a non-UK TSO is concerned, the transmission system operators must conduct a public consultation in accordance with this paragraph and endeavour to conduct that consultation jointly with the non-UK TSO.”; and
- (c) in the final sentence, for “These operators”, substitute “The transmission system operators”.

(3) In paragraph 4, before the words “coordinate across borders”, insert “endeavour to”.

20.—(1) Article 28 is amended as follows.

(2) In paragraph 1, for the words before subparagraph (a), substitute—

“1. Following the consultation and finalisation of the design phase for an incremental capacity project in accordance with Article 27, the involved transmission system operators must submit the project proposal for an incremental capacity project to the relevant national regulatory authority for approvals. Where the project proposal concerns both national regulatory authorities, the transmission system operators must coordinate the submissions for approval. Where the project proposal concerns one or more non-UK TSOs, the involved transmission system operators must endeavour to ensure that the submissions for approval to the national regulatory authorities are coordinated with any non-UK TSO’s submission for approval to any non-UK regulatory authority. The project proposal must also be published by the involved transmission system operators.

Subject to paragraph 1A, transmission system operators must ensure that the project proposal includes at least the following information:”.

(3) After the end of paragraph 1(g), insert—

“1A. If a non-UK TSO is involved, transmission system operators must include in the project proposal the information that is listed in paragraph 1(a) to (g) in so far as they are able to do so and must endeavour to cooperate with the non-UK TSO to include all the information listed in paragraph 1(a) to (g).”.

(4) For paragraph 2, substitute—

“2. Within 6 months of receipt of the complete project proposal by the relevant national regulatory authorities, the national regulatory authorities must publish decisions on the project proposal defined in paragraph 1. Where decisions are required by both national regulatory authorities, those decisions must be coordinated. Where the project proposal concerns any non-UK TSOs, the national regulatory authorities must endeavour to coordinate their decisions with the decision of any relevant non-UK regulatory authorities. The decisions must include justifications. The national regulatory authorities must, where relevant, inform each other and any relevant non-UK regulatory authority of the receipt of the project proposal and its completeness in order to determine the start of the 6 months period.

When preparing the national regulatory authority’s decision, each national regulatory authority must consider the views of the other national regulatory authority, if it is also involved. Where the project proposal concerns any non-UK TSOs, the national regulatory authorities must consider the views of any relevant non-UK regulatory authorities. In any case the national regulatory authorities must take into account any detrimental effects on competition or the obligation on any relevant non-UK regulatory authority to take into account the effective functioning of the internal gas market, where those factors are associated with the incremental capacity projects concerned.

If a relevant national regulatory authority objects to the submitted project proposal, it must, if relevant, inform the other involved national regulatory authority and any involved non-UK regulatory authority as soon as possible. In such a situation, the national regulatory authorities must take all reasonable steps to work together, if both are involved, and must take all reasonable steps to work with any involved non-UK regulatory authorities to reach a common agreement.”.

(5) For paragraph 3, substitute—

“3. Upon the publication of the decisions of the national regulatory authorities pursuant to paragraph 2 and no later than 2 months before the offer of incremental capacity in the annual yearly capacity auction, the transmission system operators must publish a notice. Transmission system operators must publish that notice jointly. Where relevant, the transmission system operators must endeavour to ensure that the notice is published jointly with any concerned non-UK TSO. The notice must include the following minimum information—

- (a) the information defined in paragraph 1 as approved by the national regulatory authorities; and
- (b) a template of the contracts related to the capacity offered.”.

21.—(1) Article 29 is amended as follows.

(2) At the end of paragraph 1, insert “Where relevant, the transmission system operators must endeavour to work with any concerned non-UK TSO to offer the incremental capacity in accordance with this paragraph.”.

(3) In paragraph 3(a), after the words “transmission system operators”, insert “and, if applicable, non-UK TSOs”.

22. Omit Article 31.

23.—(1) Article 33 is amended as follows.

(2) For paragraph 1, substitute—

“1. Transmission system operators must—

- (a) decide minimum interruption lead times jointly with adjacent TSOs that are transmission system operators; and
- (b) endeavour to decide minimum interruption lead times jointly with adjacent TSOs that are non-UK TSOs.”.

(3) In paragraph 2, in the second sentence, for “two transmission system operators”, substitute “a transmission system operator and an adjacent TSO”.

24.—(1) Article 34 is amended as follows.

(2) In the first sentence, for “adjacent transmission system operator”, substitute “adjacent TSO”.

(3) In the second sentence, omit “Adjacent”.

25. In Article 35(3), omit “within the Union, the adjacent”.

26.—(1) Article 37 is amended as follows.

(2) For paragraph 3, substitute—

“3. All transmission system operators must endeavour to ensure that there is contractual agreement with the adjacent TSOs to use a single booking platform to offer capacity on the two sides of their respective interconnection points or virtual interconnection points.”.

(3) Omit paragraph 4.

(4) In paragraph 5—

- (a) omit “across the Union”; and
- (b) omit the second sentence.

(5) At the end of paragraph 6, insert “Where the increase in technical capacity involves any non-UK TSO, the transmission system operators must endeavour to ensure that the joint booking platform is also agreed with the non-UK TSO.”.

27. Omit Articles 38 and 39.

28. In the text after Article 40, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”

Amendments to the Tariffs Code

- 1.**—(1) Article 1 is amended as follows.
- (2) Omit “harmonised”.
 - (3) Omit “rules on the application of a reference price methodology, the associated”.
 - (4) Omit “as well as the calculation of reserve prices for standard capacity products”.
- 2.**—(1) Article 2 is amended as follows.
- (2) In paragraph 1—
 - (a) in both places, omit “III.”; and
 - (b) for “entry points from third countries or exit points to third countries”, substitute “entry points from or exit points to other countries that are not member States”.
 - (3) Omit paragraph 2.
 - (4) After paragraph 1, insert—
 - “2. If a transmission system operator is regulated by both national regulatory authorities, where relevant they must cooperate with each other regarding the regulation of that transmission system operator.
 - 3. If a transmission system operator is regulated by a national regulatory authority and a non-UK regulatory authority, where relevant the national regulatory authority must endeavour to cooperate with the non-UK regulatory authority regarding the regulation of that transmission system operator.
 - 4. The interconnection points within the scope of this Regulation are those where transmission system operators or network users carry out functions or activities that are regulated by a national regulatory authority.
 - 5. In any case where a transmission system operator cannot comply with an obligation set out in this Regulation without the cooperation of a non-UK TSO, the obligation must be interpreted as a requirement on the transmission system operator to—
 - (a) comply with the obligation in so far as it is able to do so without the cooperation of the non-UK TSO; and
 - (b) endeavour to cooperate with the non-UK TSO in order to comply with that obligation.
 - 6. Paragraph 5 applies so that obligations that apply to transmission system operators at an interconnection point apply to a transmission system operator that is adjacent to a non-UK TSO at an interconnection point.”.
- 3.**—(1) Article 3 is amended as follows.
- (2) In the words before point (1)—
 - (a) after “312/2014,”, insert “and”;
 - (b) omit “as well as Article 2 of Directive 2009/73/EC”.
 - (3) In points (3), (5), (11) and (17), for “in accordance with Article 41(6)(a) of Directive 2009/73/EC”, substitute “by the national regulatory authority”.
- 4.** In Article 4(4)(b), for “a Member State”, substitute “the United Kingdom”.
- 5.**—(1) Article 5 is amended as follows.
- (2) In paragraph 3—
 - (a) in point (a)—
 - (i) for “in euro”, substitute “in pounds sterling”;

- (ii) for “the euro”, substitute “pounds sterling”;
- (b) in point (b)—
 - (i) for “in euro”, substitute “in pounds sterling”; and
 - (ii) for “the euro”, substitute “pounds sterling”.
- (3) In paragraph 4—
 - (a) in point (a)—
 - (i) for “in euro”, substitute “in pounds sterling”;
 - (ii) for “the euro”, substitute “pounds sterling”;
 - (b) in point (b)—
 - (i) for “in euro”, substitute “in pounds sterling”; and
 - (ii) for “the euro”, substitute “pounds sterling”.

6.—(1) Article 21 is amended as follows.

- (2) In paragraph 3—
 - (a) in the first sentence, omit from “or authorities” to the end of the sentence; and
 - (b) in the second sentence for “all national regulatory authorities involved”, substitute “the national regulatory authority, and any non-UK regulatory authorities whose approval is required, by the date three months before the start of the annual yearly capacity auctions”.
- (3) Omit paragraph 4.
- (4) After paragraph 3, insert—

“4. If the approval of any non-UK regulatory authorities is required, the national regulatory authority must endeavour to cooperate with those non-UK regulatory authorities.

5. If the approval of both national regulatory authorities is required, they must cooperate with each other, and references in paragraphs 3 and 4 to “the national regulatory authority” are to be read as references to “the national regulatory authorities”. ”.

7. In Article 25(1)(b)(ii)(2), after “Council”, insert “as it had effect in EU law immediately before exit day”.

8.—(1) Article 26 is amended as follows.

- (2) In paragraph 1—
 - (a) in the words before point (a), omit the second sentence;
 - (b) in point (a)—
 - (i) for point (ii), substitute—
 - “(ii) the value of any proposed adjustments for capacity-based transmission tariffs at entry points from and exit points to storage facilities, at entry points from LNG facilities and at entry points from and exit points to infrastructure developed with the purpose of ending the isolation of Great Britain or Northern Ireland, or other countries or territories, in respect of their gas transmission systems;”;
 - (ii) in point (v), for “in accordance with Article 7”, substitute “including its compliance with Article 13 of Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to natural gas transmission networks”;
 - (iii) omit point (vi); and
 - (c) in point (c)(ii)(3), omit “as referred to in Article 17(3)”.

(3) In paragraph 3, omit the last sentence.

(4) Omit paragraph 5.

9.—(1) Article 27 is amended as follows.

- (2) Omit paragraphs 1, 2 and 3.

(3) In paragraph 4—

- (a) after final consultation, insert “pursuant to Article 26”;
- (b) omit “, acting in accordance with Article 41(6)(a) of Directive 2009/73/EC,”; and
- (c) omit the last sentence.

(4) In paragraph 5, omit “The requirements set out in Chapters II, III and IV shall be taken into account in this procedure.”.

10.—(1) Article 28(1) is amended as follows.

(2) In the words before point (a)—

- (a) after “consultation with the”, for “national”, substitute “non-UK”; and
- (b) for “Member States”, substitute “countries or territories, the other national regulatory authority”.

(3) In point (b), for “the calculations set out in Article 15”, substitute “how these are calculated”.

(4) In point (c), for “discounts set out in Article 9(2) and 16”, substitute “any discounts at entry points from LNG facilities and at entry points from and exit points to infrastructure developed with the purpose of ending the isolation of Great Britain or Northern Ireland, or other countries or territories, in respect of their gas transmission systems and the level of any discounts for standard capacity products for interruptible capacity”.

(5) In the words after point (c)—

- (a) for “in accordance with Article 41(6)(a) of Directive 2009/73/EC”, substitute “by the national regulatory authority”;
- (b) for “Each”, substitute “The”;
- (c) after “positions of”, for “national”, substitute “non-UK”; and
- (d) for “Member States”, substitute “countries or territories and the other national regulatory authority”.

11.—(1) Article 31 is amended as follows.

(2) In paragraph 1—

- (a) in the words before point (a), omit “a link on the platform referred to in point 3.1.1(1)(h) of Annex I to Regulation (EC) No 715/2009 to”; and
- (b) omit point (d).

(3) In paragraph 2, in the words before point (a), for “on the platform referred to in point 3.1.1(1)(h) of Annex I to Regulation (EC) No 715/2009” substitute, “by the national regulatory authority or the transmission system operator, as decided by the national regulatory authority, on the respective entity’s website”.

(4) In paragraph 3—

- (a) omit point (b);
- (b) in point (c)(vii)—
 - (i) in the words before point (1), for “the local currency and in the euro”, substitute “pounds sterling”;
 - (ii) omit point (2); and
- (c) in the words after point (c)(vii)(2), for “the local currency and in the euro”, substitute “pounds sterling”.

(5) Omit paragraph 4.

12.—(1) Article 32 is amended as follows.

(2) In point (c)—

- (a) omit “as set out in Article 12(3)”; and

(b) for “in accordance with Article 41(6)(a) of Directive 2009/73/EC”, substitute “of the national regulatory authority”.

(3) In the words after point (c), for “Article 12(3)(b) is applied”, substitute “the reference price is recalculated within the tariff period due to exceptional circumstances under which the non-adjustment of tariff levels would jeopardise the operation of the transmission system operator”.

13.—(1) Article 33 is amended as follows.

(2) In paragraph 3, for “in accordance with Article 41(6)(a) of Directive 2009/73/EC”, substitute “by the national regulatory authority”.

(3) In paragraph 4, for “relevant national regulatory authorities”, substitute “national regulatory authority”.

(4) In paragraph 5—

(a) for “A mandatory minimum premium approved by the national regulatory authority”, substitute “If a mandatory minimum premium is approved by the national regulatory authority, and by any non-UK regulatory authorities whose approval is required, it”;

(b) omit “by the respective regulatory authority”; and

(c) for “agreement between the involved national regulatory authorities”, substitute “decision by the national regulatory authority, or agreement between the national regulatory authority and any non-UK regulatory authorities whose approval is required”.

(5) After paragraph 5, insert—

“6. If the approval of any non-UK regulatory authorities is required, the national regulatory authority must endeavour to cooperate with those non-UK regulatory authorities.

7. If the approval of both national regulatory authorities is required, they must cooperate with each other, and references in paragraphs 3, 4, 5 and 6 to “the national regulatory authority” are to be read as references to “the national regulatory authorities”.

14. Omit Article 34.

15. Omit Article 35(3).

16. Omit Article 36.

17.—(1) Article 37 is amended as follows.

(2) In paragraph 1, in the words before point (a)—

(a) for “National regulatory authorities”, substitute “The national regulatory authority”;

(b) after “that Directive”, insert “as these Articles have effect in EU law,”; and

(c) omit “jointly”.

(3) For paragraph 3, substitute—

“3. The national regulatory authority must endeavour to assess the request for a derogation jointly with any non-UK regulatory authorities whose approval is required and deal with the non-UK regulatory authorities in close cooperation. Where the national regulatory authority grants a derogation, the national regulatory authority must specify its duration in its decision.”.

(4) Omit paragraph 4.

(5) For paragraph 5, substitute—

“5. The national regulatory authority may revoke a derogation if the circumstances or underlying reasons, or both, no longer apply. The national regulatory authority must endeavour to cooperate with any non-UK regulatory authorities whose approval is required in reaching a decision on whether to revoke a derogation.”.

(6) After paragraph 5, insert—

“6. If the approval of both national regulatory authorities is required, they must cooperate with each other, and references in paragraphs 1, 3 and 5 to “the national regulatory authority” are to be read as references to “the national regulatory authorities.”.

18. In Article 38, in paragraph 3, omit the second sentence.

19. In the text after Article 38, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2), subsections (a), (b), (c) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations amend —

- Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply (“the Security of Gas Supply Regulation”);
- Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks (“the Balancing Code”);
- Commission Regulation (EU) 2015/703 of 30 April 2015 establishing a network code on interoperability and data exchange rules (“the Interoperability Code”);
- Commission Regulation (EU) 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems (“the Capacity Allocation Mechanisms Code”);
- Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas (“the Tariffs Code”);

The Security of Gas Supply Regulation, the Balancing Code, the Interoperability Code and the Capacity Allocation Mechanisms Code form part of the domestic law of the United Kingdom on and after exit day by virtue of section 3 of the European Union (Withdrawal) Act 2018. Chapter 1 and Chapters 5 to 10 of the Tariffs Code form part of the domestic law of the United Kingdom on and after exit day by virtue of section 3 of the European Union (Withdrawal) Act 2018. Chapters 2, 3 and 4 of the Tariffs Code do not form part of the domestic law of the United Kingdom on and after exit day, as they do not apply in EU law until 31 May 2019. The Security of Gas Supply Regulation is amended by the Electricity and Gas (Powers to Make Subordinate Legislation) (Amendment) (EU Exit) Regulations 2018.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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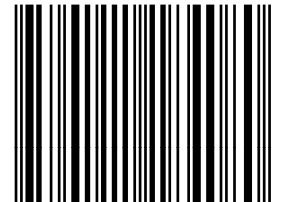
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