
STATUTORY INSTRUMENTS

2020 No. 96

The Electricity and Gas (Internal Markets) Regulations 2020

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Electricity and Gas (Internal Markets) Regulations 2020 and come into force on 25th February 2020.

PART 2

Amendment of primary legislation

Gas Act 1986

2.—(1) The Gas Act 1986(1) is amended as follows.

(2) In section 4C (binding decisions of the Agency and of the European Commission), after “the Agency Regulation” insert “(or the predecessor of the Agency Regulation)”.

(3) In section 48 (interpretation of Part 1 and savings), in subsection (1), for the definition of “the Agency Regulation” substitute—

““the Agency Regulation” means 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 (recast)(2), and “predecessor”, in relation to that Regulation, means Regulation (EC) 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators;”.

(4) In Schedule 4B (provisions imposing obligations enforceable as relevant requirements), in paragraph 9, for paragraph (f) substitute—

“(f) Article 51(3) of Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast)(3) (duty to supply information relating to certification of electricity transmission system operators).”.

Electricity Act 1989

3.—(1) The Electricity Act 1989(4) is amended as follows.

(1) 1986 c. 44; relevant amending instruments are S.I. 2011/2704 and S.I. 2019/530, which has not yet been commenced.

(2) OJ No L 158, 14.6.2019, p. 22–53.

(3) OJ No L 158, 14.6.2019, p. 54–124.

(4) 1989 c. 29; relevant amending instruments are S.I. 2011/2704 and S.I. 2019/530, which has not yet been commenced.

(2) In section 3E (binding decisions of the Agency and of the European Commission), after “the Agency Regulation” insert “(or the predecessor of the Electricity Regulation or the Agency Regulation)”.

(3) In section 3F(3) (authority to consult and cooperate with other authorities)—

- (a) in the definition of “network code”, for “Article 6” substitute “Article 59”;
- (b) in the definition of “region”, for “Article 12(3)” substitute “Article 34(3)”.

(4) In section 10D (certification), in subsection (6), for “Article 3” substitute “Article 51”.

(5) In section 10E (grounds for certification)—

- (a) in subsection (1)(b), for “Article 3” substitute “Article 51”;
- (b) in subsection (6)(b), for “Article 17” substitute “Article 63”;
- (c) after subsection (6) insert—

“(6A) In subsection (6)(b), the reference to an exemption granted under Article 63 of the Electricity Regulation is to be treated as including an exemption granted under Article 17 of the predecessor of that Regulation.”.

(6) In section 10L (continuation or withdrawal of certification)—

- (a) in subsection (6), for “Article 3” substitute “Article 51”;
- (b) after subsection (6) insert—

“(6A) In subsection (6), the reference to a final decision made under Article 51 of the Electricity Regulation is to be treated as including a final decision made under Article 3 of the predecessor of that Regulation.”.

(7) In section 25 (orders for securing compliance)—

- (a) in the definition of “relevant requirement” in subsection (8)—
 - (i) the words from “means” to the end become paragraph (a);
 - (ii) after paragraph (a) insert—
 - “, and

- (b) in relation to a regulated person who is a licence holder, also includes any duty or requirement relating to nomination imposed on that person in accordance with fallback procedures developed for the purposes of Article 44 of the CACM Regulation (establishment of fallback procedures).”;

(b) after subsection (8) insert—

“(9) In paragraph (a) of the definition of “relevant requirement” in subsection (8), the reference to a provision specified in Schedule 6A is to be treated as including a provision of the predecessor of the Electricity Regulation that was specified in that Schedule immediately before the coming into force of the Electricity and Gas (Internal Markets) Regulations 2020(5).”.

(8) In section 64(1) (interpretation etc. of Part 1)—

- (a) omit the definition of “the 2013 Amending Regulations”;
- (b) for the definition of “the Agency Regulation” substitute—

““the Agency Regulation” means 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 (recast), and “predecessor”, in relation to that Regulation, means Regulation (EC) 713/2009 of the European Parliament and

of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators;”.

(c) for the definition of “the Electricity Regulation” substitute—

““the Electricity Regulation” means Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast), and “predecessor”, in relation to that Regulation, means Regulation (EC) 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;”.

(9) In Schedule 6A (provisions imposing obligations enforceable as relevant requirements)—

(a) in paragraph 1 (all licence holders)—

(i) after paragraph (c) insert—

“(ca) Article 43(2) of the Electricity Balancing Regulation(6) (nomination obligations in the balancing timeframe);”;

(ii) in paragraph (d)—

(aa) in subparagraph (i), for “Article 15(5)”, substitute “Article 50(5)”;

(bb) in subparagraph (ii), for “Article 16(4)”, substitute “Article 16(10) and (12)”;

(iii) omit paragraph (e);

(iv) at the end insert—

“(f) Article 36(4) of the FCA Regulation(7) (nomination obligations in the long-term timeframe);

(g) in the Transparency Regulation(8)—

(i) Article 4 (submission and publication of data),

(ii) Article 6 (information on total load),

(iii) Article 7 (information relating to the unavailability of consumption units),

(iv) Article 8 (year-ahead forecast margin),

(v) Article 9 (transmission infrastructure),

(vi) Article 10 (information relating to the unavailability of transmission infrastructure),

(vii) Article 11 (information relating to the estimation and offer of cross zonal capacities),

(viii) Article 12 (information relating to the use of cross zonal capacities),

(ix) Article 13 (information relating to congestion management measures),

(x) Article 14 (forecast generation),

(xi) Article 15 (information relating to the unavailability of generation and production units),

(xii) Article 16 (actual generation),

(6) The Electricity Balancing Regulation is defined in paragraph 10 of Schedule 6A to the Electricity Act 1989, as substituted by these Regulations.

(7) The FCA Regulation is defined in paragraph 10 of Schedule 6A to the Electricity Act 1989.

(8) The Transparency Regulation is defined in section 64 of the Electricity Act 1989.

- (xiii) Article 17 (balancing).”;
- (b) in paragraph 2 (generation licence holders), for “Article 15(6)” substitute “Article 50(6)”;
- (c) in paragraph 4 (persons required to be certified as to independence)—
- (i) after paragraph (c), insert—
- “(ca) any Article of the CACM Regulation, the Electricity Balancing Regulation or the FCA Regulation;”;
- (ii) for paragraph (d) substitute—
- “(d) in the Electricity Regulation—
- (i) Article 6(13) (duties in respect of publication of information),
- (ii) Article 7 (duties in relation to day-ahead and intraday markets),
- (iii) Article 9 (duties in relation to forward markets),
- (iv) Article 16(1) to (4), (6), (10) and (11) (duties concerning capacity allocation and congestion management),
- (v) Article 17(1) and (2) (duties in relation to cross-zonal capacity across timeframes),
- (vi) Article 18(1), (3), (4) and (6) (duties relating to charges for access to networks, use of network and reinforcement),
- (vii) Article 19(2) and (3) (congestion income),
- (viii) Article 28(1) (duty to cooperate through the ENTSO for Electricity),
- (ix) Article 33 (duty to pay costs of the ENTSO for Electricity),
- (x) Article 34(1) and (2) (duties relating to regional cooperation),
- (xi) Article 49(2) and (3) (duties relating to the inter-transmission system operator compensation mechanism),
- (xii) Article 50(1) to (4) (duties relating to publication of specified information),
- (xiii) Article 51(3) (duty to supply information relating to certification of transmission system operators);
- (da) Article 8 (publication on the internet) of the Electricity Transmission System Operation Regulation⁽⁹⁾;
- (db) in the Network Code on Electricity Emergency and Restoration⁽¹⁰⁾—
- (i) Article 36(2) (publication of rules for suspension and restoration of market activities),
- (ii) Article 39(1) duty to develop and publish rules for settlement in case of suspension of market activities);”
- (iii) omit paragraph (e);
- (iv) after paragraph (g), insert—
- “(h) in the Transparency Regulation—
- (i) Article 6 (information on total load),

⁽⁹⁾ The Electricity Transmission System Operation Regulation is defined in paragraph 10 of Schedule 6A to the Electricity Act 1989.

⁽¹⁰⁾ The Network Code on Electricity Emergency and Restoration Regulation is defined in paragraph 10 of Schedule 6A to the Electricity Act 1989.

- (ii) Article 7 (information relating to the unavailability of consumption units),
 - (iii) Article 8 (year-ahead forecast margin),
 - (iv) Article 9 (transmission infrastructure),
 - (v) Article 10 (information relating to the unavailability of transmission infrastructure),
 - (vi) Article 11 (information relating to the estimation and offer of cross zonal capacities),
 - (vii) Article 12 (information relating to the use of cross zonal capacities),
 - (viii) Article 13 (information relating to congestion management measures),
 - (ix) Article 14 (forecast generation),
 - (x) Article 15 (information relating to the unavailability of generation and production units),
 - (xi) Article 16 (actual generation),
 - (xii) Article 17 (balancing).”;
- (d) in paragraph 9 (electricity undertakings which are relevant producers or suppliers), in paragraph (e), for “Article 3(3)” substitute “Article 51(3)”.
- (e) for paragraph 10 (interpretation), substitute—

“Interpretation

10. In this Schedule—

“the Electricity Balancing Regulation” means Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing(**11**);

“the Electricity Transmission System Operation Regulation” means Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation(**12**);

“the FCA Regulation” means Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation(**13**);

“the ITC Regulation” means Commission Regulation (EU) 2010/838 of 23 September 2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging(**14**);

“the Network Code on Electricity Emergency and Restoration” means Commission Regulation (EU) 2017/2196 of 24 November 2017 establishing a network code on electricity emergency and restoration(**15**);

“the Transparency Regulation” means [Commission Regulation \(EU\) No 543/2013](#) of 14 June 2013 on submission and publication of data in electricity markets and

(11) OJ No L 312, 28.11.2017, p. 6–53.

(12) OJ No L 220, 25.8.2017, p. 1–120.

(13) OJ No L 259, 27.9.2016, p. 42–68.

(14) OJ No. L250, 24.9.2010, p. 5-11.

(15) OJ No L 312, 28.11.2017, p. 54–85.

amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council(16).”.

Utilities Act 2000

4.—(1) The Utilities Act 2000(17) is amended as follows.

(2) In section 3A (designation of Authority as regulatory authority for Great Britain), in subsection (3), for “Article 13(2)” substitute “Article 19(1)(b)”.

(3) In section 106 (interpretation), in subsection (1), for the definition of “the Agency Regulation” substitute—

““the Agency Regulation” means 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 (recast)(18);”.

PART 3

Amendment of subordinate legislation: Great Britain

Electricity and Gas (Internal Markets) Regulations 2011

5.—(1) The Electricity and Gas (Internal Markets) Regulations 2011(19), are amended as follows.

(2) In regulation 51(review of regulations)—

(a) in paragraph (2), after “Third Package” insert “, the Electricity Regulation, the ACER Regulation”;

(b) in paragraph (6)—

(i) after the definition of “the 2013 Amending Regulation”, insert—

““ACER Regulation” means 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 (recast)(20);”;

(ii) after the definition of “CACM Regulations”, insert—

““Electricity Regulation” means Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast)(21);”;

(iii) in the definition of “Internal Markets Regulations”, at the appropriate place insert—

“the Electricity and Gas (Internal Markets) Regulations 2020;”;

(iv) in the definition of “Third Package”, omit paragraphs (a) and (b).

(16) OJ No L 163, 15.6.2013, 2000 c. 27; relevant amending instruments are S.I. 2011/2704 and S.I. 2019/530, which has not yet been commenced. p. 1–12.

(17) 2000 c. 27; relevant amending instruments are S.I. 2011/2704 and S.I. 2019/530, which has not yet been commenced.

(18) OJ No L 158, 14.6.2019, p. 22–53.

(19) S.I. 2011/2704; relevant amending instruments are S.I. 2014/3332, S.I. 2017/493 and S.I. 2019/530, which has not yet been commenced.

(20) OJ No L 158, 14.6.2019, p. 22–53.

(21) OJ No L 158, 14.6.2019, p. 54–124.

PART 4

Amendment of Northern Ireland Legislation

The Electricity (Northern Ireland) Order 1992

- 6.—(1) The Electricity (Northern Ireland) Order 1992⁽²²⁾ is amended as follows.
- (2) In Article 3 (interpretation of Part 2), after the definition of “the 2011 Regulations” insert—
““the Authority” means the Northern Ireland Authority for Utility Regulation;”.
- (3) In Article 10E (certification), in paragraph (5), for “Article 3” substitute “Article 51”.
- (4) In Article 10F (grounds for certification)—
- (a) in paragraph (1)(b), for “Article 3” substitute “Article 51”;
- (b) in paragraph (6), for “Article 17” substitute “Article 63”;
- (c) after paragraph (6), insert—
“(6A) In paragraph (6), the reference to an exemption granted under Article 63 of the Electricity Regulation is to be treated as including an exemption granted under Article 17 of the 2009 Electricity Market Regulation .”.
- (5) In Article 10K (continuation or withdrawal of certification)—
- (a) in paragraphs (4) and (5), for “Article 3” substitute “Article 51”;
- (b) after paragraph (5) insert—
“(5A) In paragraph (5), the reference to a final decision made under Article 51 of the Electricity Regulation is to be treated as including a final decision made under Article 3 of the 2009 Electricity Market Regulation.”.
- (6) In Article 10L(1) (interpretation)—
- (a) for the definition of “Electricity Regulation” substitute—
““Electricity Regulation” means Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast);”;
- (b) before the definition of “certification ground”, insert—
““2009 Electricity Market Regulation” means Regulation (EC) 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;”.

The Energy (Northern Ireland) Order 2003

- 7.—(1) The Energy (Northern Ireland) Order 2003⁽²³⁾ is amended as follows.
- (2) In Article 2(2) (interpretation)—
- (a) before the definition of “the Agency”, insert—
““2009 Agency Regulation” means Regulation (EC) 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators;

(22) S.I. 1992/231 (N.I.1); relevant amending instruments are S.I. 1999/506, S.I. 2003/419 (N.I.6), S.R. 2007/321, S.I. 2007/913 (N.I.7), S.R. 2011/155, S.R. 2015/249 and S.I. 2019/530, which has not yet been commenced.

(23) S.I. 2003/419 (N.I.6); relevant amending instruments are section 9(4)(b) of the Energy Act (Northern Ireland) 2011 (c. 6), paragraph 26 of Schedule 14 to the Enterprise and Regulatory Reform Act 2013 (c. 24), S.R. 2005/335, S.I. 2006/3336 (N.I.21), S.R. 2007/321, S.I. 2007/913 (N.I.7), S.R. 2010/27, S.R. 2011/155, S.R. 2013/92, S.R. 2014/198 and S.I. 2019/530, which has not yet been commenced.

- “2009 Electricity Market Regulation” means Regulation (EC) 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”;
- (b) for the definition of “the Agency Regulation” substitute—
- ““the Agency Regulation” means 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 (recast);”;
- (c) for the definition of “the Electricity Regulation” substitute—
- ““Electricity Regulation” means Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast);”;
- (d) in the definition of “Third Package” omit sub-paragraphs (c) and (d).
- (3) In Article 6B (decisions of the Agency and the European Commission)—
- (a) after “the Gas Directive,” insert “the 2009 Electricity Market Regulation,”; and
- (b) after “the Gas Regulation” insert “, the 2009 Agency Regulation”.
- (4) In Article 8A(2) (authority to consider the need to consult and co-operate with other authorities), after “the Third Package” insert “, the Agency Regulation and the Electricity Regulation”.
- (5) In Article 8A(3), in paragraph (a) of the definition of “region”, for “Article 12(3)” substitute “Article 34(3)”.
- (6) After Article 12 (principal objective and general duties of the department and authority in relation to electricity), insert Article 12A—

“Additional functions of the Authority in relation to electricity

- 12A.** In relation to electricity and where required for the purpose of setting a reliability standard in accordance with Article 25 of the Electricity Regulation, the Authority must determine an estimate of the value of lost load for Northern Ireland in accordance with Article 11 of the Electricity Regulation.”.
- (7) In Article 41A (relevant requirement in relation to electricity), after paragraph (7), insert—
- “(8) In paragraphs (1) and (3)(b), the references to provisions in the Electricity Regulation designated under this Article are to be treated as including provisions of the 2009 Electricity Market Regulation that were designated under this Article before the coming into force of the Electricity and Gas (Internal Markets) Regulations 2020(24).”.
- (8) In Article 45(11) (financial penalties), for the definition of “Community Regulation” substitute—
- “(11) “Community Regulation” means—
- (a) the Gas Regulation;
- (b) the Electricity Regulation, in the case of a contravention which occurred on or after the date on which the Electricity and Gas (Internal Markets) Regulations 2020 came into force; or
- (c) the 2009 Electricity Market Regulation, in the case of a contravention which occurred before the date referred to in sub-paragraph (b).”.

PART 5

Modifications of Standard Conditions

Modifications of standard conditions of gas licences and electricity licences

8. The Schedule to these Regulations (which modifies the standard conditions of gas interconnector licences granted under Part 1 of the Gas Act 1986 and the standard conditions of transmission, distribution, supply and interconnector licences granted under Part 1 of the Electricity Act 1989) has effect.

Kwasi Kwarteng
Minister of State
Department of Business, Energy and Industrial
Strategy

At 2.00 p.m. on 3rd February 2020