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STATUTORY INSTRUMENTS

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**2020 No. 96**

**The Electricity and Gas (Internal Markets) Regulations 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.

(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”;

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(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.

- (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),
    - (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),

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(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.

- (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<sup>(9)</sup>;
- (db) in the Network Code on Electricity Emergency and Restoration<sup>(10)</sup>—
  - (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),
    - (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),

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

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

- (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<sup>(11)</sup>;

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

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

“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<sup>(14)</sup>;

“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<sup>(15)</sup>;

“the Transparency Regulation” means [Commission Regulation \(EU\) No 543/2013](#) of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Regulation [\(EC\) No 714/2009](#) of the European Parliament and of the Council<sup>(16)</sup>.”.

### Utilities Act 2000

4.—(1) The Utilities Act 2000<sup>(17)</sup> 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—

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(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.

(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.

““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);”.