

2020 No. 306

ELECTRICITY

**The Electricity (Priority Dispatch) Regulations (Northern
Ireland) 2020**

Made - - - - *4th December 2020*

Coming into operation in accordance with regulation 1

The Department for the Economy, being a department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to energy and energy sources, makes these Regulations in exercise of the powers conferred by that section.

Citation and commencement

1.—(1) These Regulations may be cited as the Electricity (Priority Dispatch) Regulations (Northern Ireland) 2020 and shall come into operation in accordance with paragraphs (2) and (3).

(2) This regulation and regulations 2, 3(2) and (3), 4 and 5(d) shall come into operation on 31st December 2020.

(3) Regulations 3(1), 4 and 5(a) to (c) shall come into operation on 1st April 2021.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(c) applies to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

“the 1992 Order” means the Electricity (Northern Ireland) Order 1992(d);

“the Authority” has the same meaning as in Part 2 of that Order (see Article 3 of that Order);

“licence” means a transmission or distribution licence within the meaning of that Part.

(a) The European Communities (Designation) Order 2010 (S.I. 2010/761), article 7. By virtue of section 2(5) of the European Communities Act 1972, references in section 2(2) of that Act to a government department include a department of the Government of Northern Ireland.

(b) 1972 c. 68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) with effect from exit day, but saved with modifications until IP completion day by section 1A of that Act (as inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1)). Section 2(2) of the European Communities Act 1972 was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and S.I. 2007/1388.

(c) 1954 c. 33 (N.I.)

(d) S.I. 1992/231 (N.I.1) as amended by S.I. 2003/419 (N.I.6), S.R. 2005/335, S.R. 2007/283, S.R. 2007/320, S.R. 2007/321, S.I. 2007/913 (N.I.7), S.R. 2011/155, S.R. 2011/247, S.R. 2012/385, S.R. 2013/394, S.R. 2014/198, S.R. 2015/249, S.I. 2019/530 and by further provisions which are not relevant to this instrument.

Amendment of 1992 Order: priority dispatch

3.—(1) For Article 11A of the 1992 Order substitute—

“Conditions on transmission and distribution licences relating to priority dispatch

11ABA.—(1) A transmission or distribution licence must include such conditions, if any, as appear to the Authority to be requisite or expedient to ensure that, in the dispatch of electricity generating installations, priority is given to—

- (a) generating installations which fall within paragraph (2); and
- (b) generating installations which fall within paragraph (4).

(2) A generating installation falls within this paragraph if it uses renewable energy sources and—

- (a) has an installed electricity capacity of less than the relevant amount (as defined by paragraph (3)); or
- (b) is an installation that the Authority is satisfied is a demonstration project for an innovative technology within the meaning of the Electricity Regulation (see Article 2(24) of that Regulation).

(3) The “relevant amount” referred to in paragraph (2)(a) is—

- (a) in relation to an installation commissioned on any date falling before 1 January 2026, 400 kW;
- (b) in relation to an installation commissioned on or after 1 January 2026, 200kW.

(4) A generating installation falls within this paragraph if—

- (a) it is an installation which—
 - (i) uses only energy from renewable sources;
 - (ii) uses energy from renewable sources and other energy sources, but qualifies to be treated as a hybrid plant in accordance with the criteria set out in the Decision Paper SEM-11-062 of the Single Electricity Market Committee of 26th August 2011;
 - (iii) generates electricity from high efficiency co-generation; or
 - (iv) is a waste energy plant; and
- (b) it has transitional status, as defined by paragraphs (5) to (7).

(5) A generating installation has “transitional status” if it is an installation that under the first sentence of Article 12(6) of the Electricity Regulation is to continue to benefit from priority dispatch (but this is subject to paragraph (6)).

(6) If a relevant event occurs on or after 4 July 2019 in relation to an installation mentioned in paragraph (5), the installation is to be treated as ceasing to have transitional status with effect from the date of that event (or, if more than one such event occurs after 3 July 2019 in relation to the installation, with effect from the date of the earliest of those events).

(7) For the purposes of paragraph (6), a relevant event occurs in relation to a generating installation when—

- (a) the generating installation becomes subject to a modification which requires a new connection agreement; or
- (b) the generation capacity of the installation is increased.

(8) Conditions included under paragraph (1) in a licence (“priority dispatch conditions”) must ensure that—

- (a) priority given as mentioned in that paragraph is given in accordance with Article 12(2) and (6) of the Electricity Regulation and, in particular, the criteria for priority dispatch specified in the Decision Paper SEM-20-072 of the Single Electricity Market Committee of 4th November 2020;
- (b) priority is given to a demonstration project mentioned in paragraph (2)(b) only for the time, and to the extent, necessary for achieving the demonstration purposes of the project.

(9) Priority dispatch conditions included in a licence are subject to the requirements and prohibitions imposed on the holder of that licence under this Order for the maintenance of a safe and secure electricity supply.

(10) A licence which includes priority dispatch conditions must also include conditions requiring that, where the licence holder takes any measures for the maintenance of a safe and secure electricity supply which would (but for paragraph (9)) significantly contravene priority dispatch conditions, the licence holder must—

- (a) take such corrective action as is necessary to ensure that such contravention is minimised; and
- (b) report to the Authority on those measures and the corrective action taken.

(11) This Article is without prejudice to the generality of Article 11(1) (power to include conditions in a licence).

(12) In this Article—

“the 2009 Directive” means Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC(a);

“energy from renewable sources” has the meaning given in Article 2(a) of the 2009 Directive;

“high efficiency co-generation” means co-generation of electricity that meets the criteria of Annex II of the Energy Efficiency Directive (as defined in Article 11AC(8));

“priority dispatch conditions” has the meaning given in paragraph (8);

“renewable energy” has the meaning given in Article 2(50) of the Electricity Regulation;

“waste energy plant” means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste with recovery and beneficial use of the combustion heat generated, including the incineration by oxidation of waste as well as other thermal waste treatment processes such as a pyrolysis, gasification or plasma processes insofar as the substances resulting from the treatment are subsequently combusted with recovery and beneficial use of the combustion heat generated.”.

(2) Article 11ABA inserted by paragraph (1) applies in relation to licences existing at the time when that paragraph comes into operation as well as in relation to licences granted after that time.

(3) The Authority must exercise its functions under Article 14 of the 1992 Order so as to secure that the conditions required by Article 11ABA are included in (and the conditions required by Article 11AB of the 1992 Order are removed from) such existing licences on the coming into operation of paragraph (1).

(a) O.J. No. L 140, 5.6.2009, p.16-62

Amendment of 1992 Order: definition of “the Electricity Regulation”

4.—(1) In Article 3 of the 1992 Order (interpretation of Part 2), after the definition of “electricity distributor” insert—

““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)(**a**);”.

(2) In Article 10L(1) of that Order (interpretation of Articles 10B to 10L), omit the definition of “Electricity Regulation”.

Consequential revocations

5. The following are revoked—

- (a) the Electricity (Priority Dispatch) Regulations (Northern Ireland) 2012(**b**);
- (b) the Electricity (Priority Dispatch) (Amendment) Regulations (Northern Ireland) 2013(**c**);
- (c) regulations 12 and 13 of the Energy Efficiency Regulations (Northern Ireland) 2014(**d**);
- (d) regulation 6(6)(a) of the Electricity and Gas (Internal Markets) Regulations 2020(**e**).

Sealed with the Official Seal of the Department for the Economy on 4th December 2020



Joe Reynolds
A senior officer of the
Department for the Economy

(a) O.J. No. L 158, 14.6.2019, p.54-124
(b) S.R. 2012 No. 385
(c) S.R. 2013 No. 3
(d) S.R. 2014 No. 198
(e) S.I. 2020/96

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation (EU) 2019/943 of the European Parliament and of the Council on the internal market for electricity (“the Electricity Regulation”) repealed and replaced, with amendments, Regulation (EC) 714/2009 of the European Parliament and of the Council on conditions for access to the network for cross-border exchanges in electricity (“the IME3 Regulation”). EU Regulations are directly applicable and therefore member States must comply with same.

These Regulations amend the Electricity (Northern Ireland) Order 1992 and revoke the Electricity (Priority Dispatch) Regulations (Northern Ireland) 2012, the Electricity (Priority Dispatch) (Amendment) Regulations (Northern Ireland) 2013, regulation 12 of the Energy Efficiency Regulations (Northern Ireland) 2014 and regulation 6(6)(a) of the Electricity and Gas (Internal Markets) Regulations 2020, to ensure that they conform with the requirements of Article 12 of the Electricity Regulation (which outlines the new rules for priority dispatch).

Rules for priority dispatch were previously set down in Article 16(2)(c) of Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources and Article 15(5) of Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency. Article 12 of the Electricity Regulation amends and updates these rules.

Regulations 1 and 2 contain introductory provisions concerning citation, commencement and interpretation.

The Electricity Regulation narrows the criteria for generating installations to access priority dispatch. Regulation 3 substitutes Article 11AB “Conditions on transmission and distribution licences relating to priority dispatch” with Article 11ABA of the same name in order to reflect the new criteria in Article 12 of the Electricity Regulation. This allows new generating installations commissioned before 01 January 2026 to qualify for priority dispatch if they have an installed capacity of 400kW or under. Generating installations commissioned on or after that date will only qualify if they have an installed capacity of 200kW or under. Demonstration projects as defined in the Electricity Regulation and approved as such by the Authority will also qualify.

Paragraph 4(b) of Article 11ABA provides for transitional status for an existing generating installation that either:

- (i) uses only energy from renewable sources;
- (ii) uses energy from renewable sources and other energy sources, but qualifies to be treated as a hybrid plant in accordance with the criteria set out in the Decision Paper SEM-11-062 of the Single Electricity Market Committee of 26th August 2011;
- (iii) generates electricity from high efficiency co-generation; or
- (iv) is a waste energy plant.

Paragraphs 5 to 7 of Article 11ABA define the usage of the term transitional status as used in paragraph 4(b). A generating installation has transitional status if it was commissioned prior to 4th July 2019 and ceases to be eligible should it be subject to modification requiring a new connection agreement or the generation capacity is increased.

Paragraphs 9 and 10 of that Article largely replicate paragraphs 2 and 3 in the substituted 11AB (with minor drafting differences).

Paragraph 11 ensures that Article 11ABA does not rule out the general power to include conditions in a license.

Paragraph 12 defines terms as applied in this Article.

Regulation 4 makes amendments, to the 1992 Order, inserting the definition of “the Electricity Regulation” into Article 3 and omitting the existing definition from Article 10L(1).

Regulation 5 revokes the following regulations:

the Electricity (Priority Dispatch) Regulations (Northern Ireland) 2012;
the Electricity (Priority Dispatch) (Amendment) Regulations (Northern Ireland) 2013;
regulations 12 and 13 of the Energy Efficiency Regulations (Northern Ireland) 2014; and
regulation 6(6)(a) of the Electricity and Gas (Internal Markets) Regulations 2020.

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