

STATUTORY INSTRUMENTS

2019 No. 530

The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019

PART 2

Amendment of primary legislation

Energy Act 1976

2. The Energy Act 1976 ^{M1} is amended as follows.

Commencement Information

- I1** Reg. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Marginal Citations

- M1** [1976 c. 76](#). Relevant amendments were made by [S.I. 2011/1043](#).

3. In section 3 (implementation of reserve powers), in subsection (1)(a), omit “the European Union or”.

Commencement Information

- I2** Reg. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

4. In section 18 (administration, enforcement and offences), in subsection (2)—
- (a) omit paragraph (c) and the “or” following it;
 - (b) omit paragraph (d)(i) and the “or” following it.

Commencement Information

- I3** Reg. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 5.—(1) Schedule 2 (administration and other matters) is amended as follows.

(2) In paragraph 1 (power to obtain information), in sub-paragraph (2), omit “the European Union or”.

(3) In paragraph 7 (non-disclosure of information), in paragraph (c), omit “to any institution of the European Union, or”.

Commencement Information

I4 Reg. 5 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

6. Omit Schedule 3 (EU obligations of which breach is punishable under this Act).

Commencement Information

I5 Reg. 6 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Gas Act 1986

7. The Gas Act 1986 ^{M2} is amended as follows.

Commencement Information

I6 Reg. 7 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Marginal Citations

M2 [1986 c. 44](#). Relevant amendments were made by the [Utilities Act 2000 \(c. 27\)](#) sections 9 and 12, the [Energy Act 2010 \(c. 27\)](#) section 16, and by [S.I. 2000/1937](#), 2009/1349, 2011/1043, 2011/2704 and 2014/3333.

8.—(1) Section 4AA (the principal objective and general duties of the Secretary of State and the Gas and Electricity Markets Authority) is amended as follows.

(2) In subsection (1A)(c)—

- (a) for “functions as designated regulatory authority for Great Britain” substitute “ designated regulatory functions ”;
- (b) for the words from “objectives” to “Directive” substitute “ designated regulatory objectives ”.

(3) In subsection (5B), at the appropriate place insert—

““the designated regulatory objectives” means the objectives set out in Article 40(c) to (h) of the Gas Directive but read with the following modifications—

- (a) in Article 40(c), for the words from “between” to the end substitute “ , including enabling the development of appropriate cross-border transmission capacities to meet demand; ”,
- (b) in Article 40(d), omit “ , in line with general energy policy objectives; ”,
- (c) in Article 40(f), omit “and foster market integration”, and

- (d) in Article 40(g), for “their national market” substitute “ the energy market in Great Britain ”.”.

Commencement Information

- I7** Reg. 8 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 9.** In section 4B (exceptions from sections 4AA to 4A), in subsection (4), after “any”, in the second place it occurs, insert “ retained ”.

Commencement Information

- I8** Reg. 9 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 10.—(1)** Section 4C (duty of the Gas and Electricity Markets Authority as regards binding decisions of the Agency or European Commission) is amended as follows.

(2) Renumber the existing section as subsection (1).

(3) After subsection (1) insert—

“(2) For the purposes of subsection (1), a binding decision does not include a decision that is not, or so much of a decision as is not, retained EU law.”.

Commencement Information

- I9** Reg. 10 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 11.—(1)** Section 4D (Gas and Electricity Markets Authority to consult and cooperate with other authorities) is amended as follows.

(2) In subsection (1)—

(a) for “functions as designated regulatory authority for Great Britain” substitute “ designated regulatory functions ”;

(b) in paragraph (a), for the words from “Agency” to “States” substitute “ Northern Ireland Authority ”;

(c) in paragraph (b)—

(i) for the words from “Agency and” to “States” substitute “ Northern Ireland Authority ”;

(ii) for “they” substitute “ it ”;

(iii) for the words from “their” to “to gas” substitute “ its designated regulatory functions ”.

(3) In subsection (2)—

(a) for the words from “designated” to “Britain” substitute “ Northern Ireland Authority ”;

- (b) omit “, within that region,”;
- (c) omit paragraph (a);
- (d) in paragraph (d)—
 - (i) for “cross-border trade in gas” substitute “ trade in gas between Great Britain and Northern Ireland ”;
 - (ii) for “cross-border capacity” substitute “ capacity between Great Britain and Northern Ireland ”;
- (e) omit paragraph (f) (but not the “and” following it).
- (4) In subsection (3)—
 - (a) omit the definition of “network code”;
 - (b) omit the definition of “region” and the “and” following it.

Commencement Information

I10 Reg. 11 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 12.** In section 8D (application for certification), in subsection (3)—
- (a) omit “on or after 3 March 2013”;
 - (b) for “third country”, in both places, substitute “ country outside the United Kingdom ”;
 - (c) in paragraph (a), omit “and the European Commission”;
 - (d) in paragraph (b)—
 - (i) omit “to the Secretary of State”;
 - (ii) omit “or any other EEA state”.

Commencement Information

I11 Reg. 12 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

13.—(1) Section 8E (report where applicant connected with a country outside the European Economic Area) is amended as follows.

- (2) In the heading, for “European Economic Area” substitute “ United Kingdom ”.
- (3) In subsection (1), for “third country”, in both places, substitute “ country outside the United Kingdom ”.
- (4) In subsection (2), omit “or any other EEA state”.
- (5) In subsection (5)(b), omit “third”.

Commencement Information

I12 Reg. 13 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

14. Notwithstanding the amendments of sections 8D and 8E of the Gas Act 1986 made by regulations 12 and 13, if an application under section 8D is made before [F¹IP completion day] and the applicant is a person from an EEA state or a person controlled by a person from an EEA state—

- (a) the Gas and Electricity Markets Authority is not required to notify the Secretary of State of the application under section 8D(3), and
- (b) the Secretary of State is not required to prepare a report under section 8E in relation to the application.

Textual Amendments

- F1** Words in reg. 14 substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), 3(3)

Commencement Information

- I13** Reg. 14 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

15.—(1) Section 8F (certification) is amended as set out in paragraphs (2) to (5).

(2) In subsection (1)—

- (a) omit “preliminary”;
- (b) for “it should” substitute “ to ”.

(3) In subsection (4)—

- (a) omit “preliminary”;
- (b) after paragraph (a) insert “ and ”;
- (c) omit paragraph (c) and the “and” before it.

(4) Omit subsections (5) to (8).

(5) After subsection (8) insert—

“(9) The Authority must publish its decision to certify or to refuse to certify the applicant, together with the reasons for it, in such manner as it considers appropriate.”.

(6) Where, immediately before [F²IP completion day], the Gas and Electricity Markets Authority has made a preliminary decision under section 8F of the Gas Act 1986 on an application for certification, but not a final decision under Article 3 of 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](#), the Authority's preliminary decision is to be treated on and after [F²IP completion day] as if it were a final decision under Article 3 made immediately before [F²IP completion day].

(7) If a preliminary decision of the Gas and Electricity Markets Authority is treated as a final decision to certify, or to refuse to certify, an applicant because of paragraph (6), the Authority must publish, in such manner as it considers appropriate, a document setting out that decision and the reasons for it.

Textual Amendments

- F2** Words in reg. 15(6) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), 3(4)

Commencement Information

I14 Reg. 15 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(1)

16.—(1) Section 8G (grounds for certification) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a)—

(i) omit “preliminary”;

(ii) for “an applicant should be certified” substitute “to certify an applicant”;

(b) omit paragraph (b).

(3) In subsection (2)—

(a) omit “decide that the applicant should be certified, or”;

(b) omit “six”.

(4) Omit subsection (6).

(5) In subsection (7)(b), for the words from “requirement” to the end substitute—

“requirement—

(i) in accordance with Article 36 of the Gas Directive (new infrastructure) before [^{F3}IP completion day] and remains entitled to the benefit of it, or

(ii) on the basis set out in Article 36(1) to (3) and (6) of the Gas Directive and remains entitled to the benefit of it.”.

(6) In subsection (9)—

(a) omit paragraph (a);

(b) in paragraph (b)—

(i) omit “must not decide that the applicant should be certified, and”;

(ii) omit “or any other EEA state”;

(c) omit paragraph (c).

(7) After subsection (9) insert—

“(10) For the purposes of subsection (4), Article 9(9) of the Gas Directive is to be treated as if the comparison with the provisions of Chapter 4 of the Gas Directive were a comparison with the provisions of Chapter 4 as they applied in relation to a member State immediately before [^{F4}IP completion day].

(11) The references in subsection (5) to Article 14(1) and (2) of the Gas Directive are to be treated as references to those provisions with the following modifications—

[^{F5}(a) Article 14(1) is to be read as if the second and third sentences were omitted;]

(b) Article 14(2)(b) is to be read as if after “Article 13” there were inserted—

“as implemented in relation to Great Britain immediately before [^{F4}IP completion day], disregarding for this purpose—

(i) paragraph 2,

(ii) paragraph 3 so far as relating to Article 41(6)(c), and

(iii) paragraph 4 except as it relates to such minimum standards, if any, as apply in Great Britain”;

- (c) Article 14(2)(e) is to be read as if—
- (i) for “Regulation (EC) No 715/2009” there were substituted “ the Gas Regulation ”, and
 - (ii) the words from “including” to the end were omitted.”.

Textual Amendments

- F3** Words in reg. 16(5) substituted (15.9.2020) by The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1016), regs. 1(2), **3(5)(a)**
- F4** Words in reg. 16(7) substituted (15.9.2020) by The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1016), regs. 1(2), **3(5)(b)(i)**
- F5** Words in reg. 16(7) substituted (15.9.2020) by The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1016), regs. 1(2), **3(5)(b)(ii)**

Commencement Information

- I15** Reg. 16 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(1)

17.—(1) Section 8J (designation for the purposes of EU gas legislation) is amended as set out in paragraphs (2) to (5).

(2) In the heading, for “EU gas legislation” substitute “ the Gas Regulation ”.

(3) In subsection (2)—

(a) omit “fourth,”;

(b) for the words from “Article” to “operators)” substitute “ the Gas Regulation ”.

(4) In subsection (3), for “that Article” substitute “ the Gas Regulation ”.

(5) In subsection (4)—

(a) after paragraph (a) insert “ and ”;

(b) omit paragraph (c) and the “and” preceding it.

(6) A person who is designated as a gas transmission system operator under section 8J of the Gas Act 1986 for the purposes of Article 10(2) of the Gas Directive immediately before [F6IP completion day] is to be treated, on and after [F6IP completion day], as a person who is designated as a gas transmission system operator under section 8J for the purposes of the Gas Regulation, if and for so long as the person designated or (as the case may be) the person who nominated the person designated continues on and after [F6IP completion day] to hold a licence under section 7 or 7A of the Gas Act 1986 and to be certified under section 8F of that Act.

(7) In paragraph (6)—

“the Gas Directive” means 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^{M3}[F7], as amended by Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019];

“the Gas Regulation” means 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.

Textual Amendments

- F6** Words in reg. 17(6) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(6)(a)**
- F7** Words in reg. 17(7) inserted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(6)(b)**

Commencement Information

- I16** Reg. 17 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Marginal Citations

- M3** O.J. L 211, 14.8.2009, p. 94.

18.—(1) Section 8K (monitoring and review of certification) is amended as follows.

(2) In subsection (2)—

- (a) omit “on or after 3 March 2013,”;
- (b) for “third country” substitute “country outside the United Kingdom”;
- (c) in paragraph (a), omit “and the European Commission”;
- (d) in paragraph (b), omit “or any other EEA state”.

(3) Omit subsections (3) and (4).

(4) In subsection (5), omit “also”.

(5) In subsection (10), omit “(4),”.

Commencement Information

- I17** Reg. 18 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

19.—(1) Section 8M (report as to any connection of certified person with a country outside the European Economic Area) is amended as follows.

(2) In the heading, for “outside the European Economic Area” substitute “outside the United Kingdom”.

(3) In subsection (2), omit “or any other EEA state”.

(4) In subsection (5)(b), omit “third”.

Commencement Information

- I18** Reg. 19 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

20.—(1) Notwithstanding the amendments of sections 8K and 8M of the Gas Act 1986 made by regulations 18 and 19, if and for so long as the condition in paragraph (2) is satisfied in relation to the person—

- (a) the Gas and Electricity Markets Authority is not required to notify the Secretary of State under section 8K(2) about a person from a country outside the United Kingdom who has taken control of a certified person before [^{F8}IP completion day], and
 - (b) the Secretary of State is not required to prepare a report under section 8M in relation to the certified person.
- (2) The condition is that the person was a person from an EEA state at the time of taking control and has continued to be such a person.

Textual Amendments

F8 Words in reg. 20(1)(a) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), 3(7)

Commencement Information

I19 Reg. 20 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

21.—(1) Section 8N (continuation or withdrawal of certification) is amended as set out in paragraphs (2) to (9).

- (2) In subsection (1)—
 - (a) for “8K(3) or (5)” substitute “ 8K(5) ”;
 - (b) for “8K(4) or (6)” substitute “ 8K(6) ”;
 - (c) in paragraph (a)—
 - (i) omit “preliminary”;
 - (ii) for “that the certification should be continued” substitute “ to continue the certification ”;
 - (d) in paragraph (b)—
 - (i) omit “preliminary”;
 - (ii) for “that the certification should be withdrawn” substitute “ to withdraw the certification ”.
- (3) In subsection (2)—
 - (a) omit “preliminary”;
 - (b) for “that the certification should be continued” substitute “ to continue the certification ”.
- (4) In subsection (3)—
 - (a) in paragraph (a)—
 - (i) omit “preliminary”;
 - (ii) for “that the certification should be continued” substitute “ to continue the certification ”;
 - (b) in paragraph (b)—
 - (i) omit “preliminary”;
 - (ii) for “that the certification should be withdrawn” substitute “ to withdraw the certification ”.
- (5) In subsection (4)—

- (a) omit “preliminary”;
- (b) for “that the certification should be continued” substitute “ to continue the certification ”.
- (6) In subsection (5)—
 - (a) omit “preliminary”;
 - (b) omit paragraph (b) and the “and” before it.
- (7) Omit subsections (6) to (9).
- (8) After subsection (9) insert—

“(9A) The Authority must publish its decision to continue a certification, or to withdraw a certification, together with the reasons for it, in such manner as it considers appropriate.”.
- (9) In subsection (10)—
 - (a) in the words before paragraph (a), for “8G(9)(a) and (b)” substitute “ 8G(9)(b) ”;
 - (b) in paragraph (a), for “8G(9)(a) and (b)” substitute “ 8G(9)(b) ”.

(10) Where, immediately before [^{F9}IP completion day], the Gas and Electricity Markets Authority has made a preliminary decision under section 8N of the Gas Act 1986 on a review under section 8K(5) or (8), but not a final decision under Article 3 of 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, the Authority's preliminary decision is to be treated on and after [^{F9}IP completion day] as if it were a final decision under Article 3 made immediately before [^{F9}IP completion day].

(11) If a preliminary decision of the Gas and Electricity Markets Authority is treated as a final decision to continue a certification, or to withdraw a certification, because of paragraph (10), the Authority must publish, in such manner as it considers appropriate, a document setting out that decision and the reasons for it.

Textual Amendments

- F9** Words in reg. 21(10) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(8)**

Commencement Information

- I20** Reg. 21 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 22.** In section 8Q (interpretation of sections 8C to 8Q), in subsection (1)—
- (a) in the definition of “certified”, for the words from “taken” to “certified) by” substitute “ certified by ”;
 - (b) in the definition of “person from a third country”, for “third country”, in both places, substitute “ country outside the United Kingdom ”;
 - (c) omit the definition of “third country”.

Commencement Information

- I21** Reg. 22 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 23.**—(1) Section 8R (independence of storage facilities) is amended as follows.
- (2) In subsection (2), for “an EEA state” substitute “ the United Kingdom ”.
- (3) In subsection (3), for “an EEA state” substitute “ the United Kingdom ”.
- (4) In subsection (4), for “an EEA state” substitute “ the United Kingdom ”.

Commencement Information

I22 Reg. 23 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

- 24.** In section 19A (application of section 19B to storage facilities), omit subsection (2C).

Commencement Information

I23 Reg. 24 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

25.—(1) Section 19AA (review and revocation of exemptions under section 19A) is amended as follows.

- (2) In the heading, omit “Review and”.
- (3) Omit subsection (1).
- (4) Omit subsection (2).
- (5) In subsection (4)—
- (a) in paragraph (a)—
- (i) after “if” insert “ before [F10IP completion day]”;
- (ii) after “(1)” insert “ (as it then had effect) ”;
- (b) in paragraph (b), after “if,” insert “ before [F10IP completion day] and ”;
- (c) for paragraph (c) substitute—
- “(c) if—
- (i) before [F10IP completion day] the Authority sent the European Commission a copy of the exemption and terms under subsection (1) (as it then had effect), and
- (ii) the European Commission does not act as described in paragraph (a) or (b) before [F10IP completion day],
- the date 4 months after the Authority sent the European Commission a copy of the exemption and terms under subsection (1) or [F10IP completion day], whichever is the sooner;”;
- (d) after paragraph (c) insert—
- “(d) if the decision to give the exemption was published under section 19A(11) on or after [F10IP completion day], the date on which the decision was published under section 19A(11).”

Textual Amendments

- F10** Words in reg. 25(5) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(9)**

Commencement Information

- I24** Reg. 25 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 26.** In section 19C (application of section 19D to LNG facilities), omit subsection (2C).

Commencement Information

- I25** Reg. 26 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

27.—(1) Section 19CA (review and revocation of exemptions under section 19C) is amended as follows.

- (2) In the heading, omit “Review and”.
- (3) Omit subsection (1).
- (4) Omit subsection (2).
- (5) In subsection (4)—
 - (a) in paragraph (a) —
 - (i) after “if” insert “ before [F11IP completion day] ”;
 - (ii) after “(1)” insert “ (as it then had effect) ”;
 - (b) in paragraph (b), after “if,” insert “ before [F11IP completion day] and ”;
 - (c) for paragraph (c) substitute—

“(c) if—

 - (i) before [F11IP completion day] the Authority sent the European Commission a copy of the exemption and terms under subsection (1) (as it then had effect), and
 - (ii) the European Commission does not act as described in paragraph (a) or (b) before [F11IP completion day],

the date 4 months after the Authority sent the European Commission a copy of the exemption and terms under subsection (1) or [F11IP completion day], whichever is the sooner;”;
 - (d) after paragraph (c) insert—

“(d) if the decision to give the exemption was published under section 19C(10) on or after [F11IP completion day], the date on which the decision was published under section 19C(10).”.

Textual Amendments

F11 Words in reg. 27(5) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(10)**

Commencement Information

I26 Reg. 27 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

28.—(1) Section 19D (acquisition of rights to use LNG facilities) is amended as follows.

(2) In subsection (11B), for the words from “, within” to “that paragraph;” substitute “ which applies to the owner; ”.

(3) After subsection (12) insert—

“(13) An obligation is a public service obligation for the purposes of this section if—

(a) it is imposed by or under a provision of an Act, and

(b) the provision is identified in a notice issued by the Secretary of State as a provision imposing, or enabling the imposition of, a public service obligation within the meaning of Article 3(2) of the Gas Directive (as it had effect immediately before [^{F12}IP completion day]).

(14) For the purposes of subsection (13), the reference to Article 3(2) is to be read as if the reference in that provision to natural gas undertakings of the Community were a reference to natural gas undertakings of the United Kingdom.”.

Textual Amendments

F12 Words in reg. 28(3) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(11)**

Commencement Information

I27 Reg. 28 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

29.—(1) Section 19DZA (duty to allow others to use LNG import or export facilities: exemptions in relation to take-or-pay commitments) is amended as follows.

(2) In subsection (5)(b)(ii), for the words from “, within” to “that paragraph;” substitute “ which applies to the owner; ”.

(3) After subsection (5) insert—

“(5A) In subsection (5)(b)(ii) “public service obligation” has the same meaning as in section 19D.”.

(4) Omit subsection (7).

(5) Omit subsection (9).

Commencement Information

I28 Reg. 29 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(1\)](#)

30. In the italic heading preceding section 27B, for “Article 41 Disputes” substitute “ Section 27B disputes ”.

Commencement Information

I29 Reg. 30 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(1\)](#)

31.—(1) Section 27B (meaning of “Article 41 dispute”) is amended as follows.

- (2) In the title, for “ “Article 41” substitute “ “section 27B”.
- (3) In subsection (1)—
 - (a) for “an “Article 41 dispute”” substitute “ a “section 27B dispute” ”;
 - (b) in paragraph (b), for the words from “under” to “Directive” substitute “ which falls within subsection (2A) ”.
- (4) After subsection (2) insert—

“(2A) An obligation of the person complained against falls within this subsection if it is—

 - (a) an obligation under a relevant condition or relevant requirement in relation to that person imposed before [^{F13}IP completion day] for the purpose of implementing the Gas Directive, including such an obligation as modified on or after [^{F13}IP completion day], or
 - (b) an obligation under a relevant condition or relevant requirement in relation to that person imposed on or after [^{F13}IP completion day] which, if it had been imposed immediately before [^{F13}IP completion day], would have been an obligation imposed for the purpose of implementing the Gas Directive.”.

Textual Amendments

F13 Words in reg. 31(4) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(12)**

Commencement Information

I30 Reg. 31 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(1\)](#)

32.—(1) Section 27C (determination of disputes) is amended as follows.

- (2) In subsection (1), for “An Article 41” substitute “ A section 27B ”.
- (3) In subsection (2), for “An Article 41” substitute “ A section 27B ”.

- (4) In subsection (3), for “an Article 41” substitute “ a section 27B ”.

Commencement Information

I31 Reg. 32 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(1\)](#)

33.—(1) Section 27D (time limit for determinations) is amended as follows.

(2) In subsection (1), for “an Article 41” substitute “ a section 27B ”.

(3) In subsection (4)(a), for “an Article 41” substitute “ a section 27B ”.

Commencement Information

I32 Reg. 33 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(1\)](#)

34.—(1) Section 34 (general functions of the Gas and Electricity Markets Authority) is amended as follows.

(2) In subsection (2A)—

(a) in paragraph (b), for “and (r) to” substitute “ , (r) and ”;

(b) omit paragraph (d) (but not the “and” following it).

(3) After subsection (2A) insert—

“(2B) For the purposes of subsection (2A)(c), the reference to Article 41(3)(a) is to be read as if the reference in that provision to Article 41 were a reference to Article 41 as implemented in Great Britain immediately before [^{F14}IP completion day].”.

Textual Amendments

F14 Words in reg. 34(3) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(13)**

Commencement Information

I33 Reg. 34 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(1\)](#)

35.—(1) In section 48 (interpretation of Part 1 and savings), subsection (1) is amended as follows.

(2) Omit the definition of “designated regulatory authority”.

(3) Omit the definition of “designated regulatory authority for Great Britain”.

(4) At the appropriate place insert—

““designated regulatory function” means a function of the Authority or the Northern Ireland Authority conferred by—

(a) a provision of retained EU law, ^{F15}...or

- (b) a condition in a licence under section 7, 7ZA or 7A or Article 8 of the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2)), as that condition is modified from time to time on or after [F16IP completion day],

where that function was, immediately before [F16IP completion day], one of its functions as a regulatory authority designated in accordance with Article 39 of the Gas Directive;”.

- (5) At the appropriate place insert—

““Northern Ireland Authority” means the Northern Ireland Authority for Utility Regulation;”.

Textual Amendments

- F15** Words in reg. 35(4) omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(14)(a)**
- F16** Words in reg. 35(4) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(14)(b)**
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Commencement Information

- I34** Reg. 35 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

36. In Schedule 2AB (duties of supply exemption holders), in paragraph 7 (determination of disputes), for “an Article 41” substitute “a section 27B”.

Commencement Information

- I35** Reg. 36 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

37.—(1) Schedule 4B (provisions imposing obligations enforceable as relevant requirements) is amended as set out in paragraphs (2) and (3).

(2) In paragraph 3 (persons required to be certified as to independence), in paragraph (d), omit sub-paragraphs (i) to (iv).

(3) In paragraph 9 (gas undertakings which are relevant producers or suppliers)—

- (a) omit paragraph (e);
- (b) omit paragraph (f).

(4) For the purposes of sections 30A to 30O and 38 of the Gas Act 1986, a reference in Schedule 4B to the Gas Act 1986 to a provision of retained direct EU legislation is to be treated on or after [F17IP completion day] as including a reference to that provision as it had effect in EU law at any time before [F17IP completion day].

Textual Amendments

- F17** Words in reg. 37(4) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(15)**

Commencement Information

I36 Reg. 37 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Electricity Act 1989

38. The Electricity Act 1989 ^{M4} is amended as follows.

Commencement Information

I37 Reg. 38 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Marginal Citations

M4 1989 c. 29. Relevant amendments were made by the [Utilities Act 2000 \(c. 27\)](#) sections 13 and 16, the [Energy Act 2010 \(c. 27\)](#) section 17, and by [S.I. 2009/1349](#), 2011/1043, 2011/2704, 2014/3333 and 2017/493.

39.—(1) Section 3A (the principal objective and general duties of the Secretary of State and the Gas and Electricity Markets Authority) is amended as follows.

(2) In subsection (1A)(c)—

- (a) for “functions as designated regulatory authority for Great Britain” substitute “ designated regulatory functions ”;
- (b) for the words from “objectives” to “Directive” substitute “ designated regulatory objectives ”.

(3) In subsection (5B), at the appropriate place insert—

““the designated regulatory objectives” means the objectives set out in Article 36(c) to (h) of the Electricity Directive but read with the following modifications—

- (a) in Article 36(c), for the words from “between” to the end substitute “ , including enabling the development of appropriate cross-border transmission capacities to meet demand; ”,
- (b) in Article 36(d), omit “ , in line with general energy policy objectives.”,
- (c) in Article 36(f), omit “and foster market integration”, and
- (d) in Article 36(g), for “their national market” substitute “ the energy market in Great Britain ”.”

Commencement Information

I38 Reg. 39 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

40. In section 3D (exceptions from sections 3A to 3C), in subsection (5), after “any”, in the second place it occurs, insert “ retained ”.

Commencement Information

I39 Reg. 40 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

41.—(1) Section 3E (duty of the Gas and Electricity Markets Authority as regards binding decisions of the Agency or European Commission) is amended as follows.

(2) Renumber the existing section as subsection (1).

(3) After subsection (1) insert—

“(2) For the purposes of subsection (1), a binding decision does not include a decision that is not, or so much of a decision as is not, retained EU law.”.

Commencement Information

I40 Reg. 41 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

42.—(1) Section 3F (Gas and Electricity Markets Authority to consult and cooperate with others) is amended as follows.

(2) In subsection (1)—

(a) for “functions as designated regulatory authority for Great Britain” substitute “ designated regulatory functions ”;

(b) in paragraph (a), for the words from “Agency” to “States” substitute “ Northern Ireland Authority ”;

(c) in paragraph (b)—

(i) for the words from “Agency and” to “States” substitute “ Northern Ireland Authority ”;

(ii) for “they” substitute “ it ”;

(iii) for the words from “their” to “to electricity” substitute “ its designated regulatory functions ”.

(3) In subsection (2)—

(a) for the words from “designated” to “Britain” substitute “ Northern Ireland Authority ”;

(b) omit “, within that region,”;

(c) omit paragraph (a);

(d) omit paragraph (f) (but not the “and” following it).

(4) In subsection (3)—

(a) omit the definition of “network code”;

(b) omit the definition of “region” and the “and” following it.

Commencement Information

I41 Reg. 42 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

43. In section 10B (application for certification), in subsection (3)—

- (a) omit “on or after 3 March 2013”;
- (b) for “third country”, in both places, substitute “country outside the United Kingdom”;
- (c) in paragraph (a), omit “and the European Commission”;
- (d) in paragraph (b)—
 - (i) omit “to the Secretary of State”;
 - (ii) omit “or any other EEA state”.

Commencement Information

I42 Reg. 43 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

44.—(1) — Section 10C (report where applicant connected with a country outside the European Economic Area) is amended as follows.

- (2) In the heading, for “European Economic Area” substitute “United Kingdom”.
- (3) In subsection (1), for “third country”, in both places, substitute “country outside the United Kingdom”.
- (4) In subsection (2), omit “or any other EEA state”.
- (5) In subsection (5)(b), omit “third”.

Commencement Information

I43 Reg. 44 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

45. Notwithstanding the amendments of sections 10B and 10C of the Electricity Act 1989 made by regulations 43 and 44, where an application under section 10B is made before [F18IP completion day] and the applicant is a person from an EEA state or a person controlled by a person from an EEA state—

- (a) the Gas and Electricity Markets Authority is not required to notify the Secretary of State of the application under section 10B(3), and
- (b) the Secretary of State is not required to prepare a report under section 10C in relation to the application.

Textual Amendments

F18 Words in reg. 45 substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(16)**

Commencement Information

I44 Reg. 45 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

46.—(1) Section 10D (certification) is amended as set out in paragraphs (2) to (5).

(2) In subsection (1)—

- (a) omit “preliminary”;
- (b) for “it should” substitute “ to ”.

(3) In subsection (4)—

- (a) omit “preliminary”;
- (b) after paragraph (a) insert “ and ”;
- (c) omit paragraph (c) and the “and” before it.

(4) Omit subsections (5) to (8).

(5) After subsection (8) insert—

“(9) The Authority must publish its decision to certify or to refuse to certify the applicant, together with the reasons for it, in such manner as it considers appropriate.”.

(6) Where, immediately before [^{F19}IP completion day], the Gas and Electricity Markets Authority has made a preliminary decision under section 10D of the Electricity Act 1989 on an application for certification, but not a final decision under [^{F20}Article 51 of the Electricity Regulation (or Article 3 of its predecessor)], the Authority's preliminary decision is to be treated on and after [^{F19}IP completion day] as if it were a final decision under [^{F21}Article 51 of the Electricity Regulation] made immediately before [^{F19}IP completion day].

(7) If a preliminary decision of the Gas and Electricity Markets Authority is treated as a final decision to certify, or to refuse to certify, an applicant because of paragraph (6), the Authority must publish, in such manner as it considers appropriate, a document setting out that decision and the reasons for it.

Textual Amendments

F19 Words in reg. 46(6) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(17)(c)**

F20 Words in reg. 46(6) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(17)(a)**

F21 Words in reg. 46(6) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(17)(b)**

Commencement Information

I45 Reg. 46 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 47.**—(1) Section 10E (grounds for certification) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a)—
- (i) omit “preliminary”;
- (ii) for “an applicant should be certified” substitute “^{F22}... to certify an applicant”;
- (b) omit paragraph (b).
- (3) In subsection (2), omit “decide that the applicant should be certified, or”.
- (4) In subsection (8)—
- (a) omit paragraph (a);
- (b) in paragraph (b)—
- (i) omit “must not decide that the applicant should be certified, and”;
- (ii) omit “or any other EEA state”;
- (c) omit paragraph (c).
- (5) After subsection (8) insert—
- “(9) For the purposes of subsection (4), Article 9(9) of the Electricity Directive is to be treated as if the comparison with the provisions of Chapter 5 of the Electricity Directive were a comparison with the provisions of Chapter 5 as they applied in relation to a member State immediately before [^{F23}IP completion day].
- (10) For the purposes of subsection (5), the references to Article 13(1) and (2) of the Electricity Directive are to be treated as references to those provisions with the following modifications—
- (a) Article 13(1) is to be read as if “Such designation shall be subject to approval by the Commission” were omitted;
- (b) Article 13(2)(b) is to be read as if the reference to Article 12 of the Electricity Directive were a reference to Article 12 with the omission of point (h);
- (c) Article 13(2)(e) is to be read as if—
- (i) for “Regulation (EC) No 714/2009” there were substituted “ the Electricity Regulation ”, and
- (ii) the words from “including” to the end were omitted.”.

Textual Amendments

F22 Word in reg. 47(2)(a)(ii) omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(18)(a)**

F23 Words in reg. 47(5) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(18)(b)**

Commencement Information

I46 Reg. 47 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 48.**—(1) Section 10H (designation for the purposes of EU electricity legislation) is amended as set out in paragraphs (2) to (5).

- (2) In the heading, for “EU electricity legislation” substitute “ the Electricity Regulation ”.
- (3) In subsection (2), for the words from “Article” to “operators)” substitute “ the Electricity Regulation ”.
- (4) In subsection (3), for “that Article” substitute “ the Electricity Regulation ”.
- (5) In subsection (4)—
- (a) after paragraph (a) insert “ and ”;
 - (b) omit paragraph (c) and the “and” preceding it.
- (6) A person who is designated an electricity transmission system operator under section 10H of the Electricity Act 1989 for the purposes of Article 10(2) of the Electricity Directive immediately before [^{F24}IP completion day] is to be treated, on and after [^{F24}IP completion day], as a person who is designated as an electricity transmission system operator under section 10H for the purposes of the Electricity Regulation, if and for so long as the person designated or (as the case may be) the person who nominated the person designated continues on and after [^{F24}IP completion day] to hold a licence under section 6(1)(b) or (e) of the Electricity Act 1989 and to be certified under section 10D of that Act.
- (7) In paragraph (6)—
- “the Electricity Directive” means Directive [2009/72/EC](#) of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive [2003/54/EC](#)^{M5};

^{F25}
...

Textual Amendments

- F24** Words in reg. 48(6) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(19)(a)**
- F25** Words in reg. 48(7) omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(19)(b)**

Commencement Information

- I47** Reg. 48 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Marginal Citations

- M5** O.J. L 211, 14.8.2009, p. 55.

49.—(1) Section 10I (monitoring and review of certification) is amended as follows.

- (2) In subsection (2)—
- (a) omit “on or after 3 March 2013,”;
 - (b) for “third country” substitute “ country outside the United Kingdom ”;
 - (c) in paragraph (a), omit “and the European Commission”;
 - (d) in paragraph (b), omit “or any other EEA state”.
- (3) Omit subsections (3) and (4).
- (4) In subsection (5), omit “also”.
- (5) In subsection (10), omit “(4),”.

Commencement Information

I48 Reg. 49 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

50.—(1) Section 10K (report as to any connection of certified person with a country outside the European Economic Area) is amended as follows.

- (2) In the heading, for “European Economic Area” substitute “ United Kingdom ”.
- (3) In subsection (2), omit “or any other EEA state”.
- (4) In subsection (5)(b), omit “third”.

Commencement Information

I49 Reg. 50 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

51.—(1) Notwithstanding the amendments of sections 10I and 10K of the Electricity Act 1989 made by regulations 49 and 50, if and for so long as the condition in paragraph (2) is satisfied in relation to the person—

- (a) the Gas and Electricity Markets Authority is not required to notify the Secretary of State under section 10I(2) about a person from a country outside the United Kingdom who has taken control of a certified person before [^{F26}IP completion day], and
- (b) the Secretary of State is not required to prepare a report under section 10K in relation to the certified person.

(2) The condition is that the person was a person from an EEA state at the time of taking control and has continued to be such a person.

Textual Amendments

F26 Words in reg. 51(1)(a) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), [3\(20\)](#)

Commencement Information

I50 Reg. 51 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

52.—(1) Section 10L (continuation or withdrawal of certification) is amended as set out in paragraphs (2) to (9).

- (2) In subsection (1)—
 - (a) for “10I(3) or (5)” substitute “ 10I(5) ”;
 - (b) for “10I(4) or (6)” substitute “ 10I(6) ”;
 - (c) in paragraph (a)—
 - (i) omit “preliminary”;

- (ii) for “that the certification should be continued” substitute “ to continue the certification ”;
- (d) in paragraph (b)—
 - (i) omit “preliminary”;
 - (ii) for “that the certification should be withdrawn” substitute “ to withdraw the certification ”.
- (3) In subsection (2)—
 - (a) omit “preliminary”;
 - (b) for “that the certification should be continued” substitute “ to continue the certification ”.
- (4) In subsection (3)—
 - (a) in paragraph (a)—
 - (i) omit “preliminary”;
 - (ii) for “that the certification should be continued” substitute “ to continue the certification ”;
 - (b) in paragraph (b)—
 - (i) omit “preliminary”;
 - (ii) for “that the certification should be withdrawn” substitute “ to withdraw the certification ”.
- (5) In subsection (4)—
 - (a) omit “preliminary”;
 - (b) for “that the certification should be continued” substitute “ to continue the certification ”.
- (6) In subsection (5)—
 - (a) omit “preliminary”;
 - (b) omit paragraph (b) and the “and” before it.
- (7) Omit subsections (6) to (9).
- (8) After subsection (9) insert—

“(9A) The Authority must publish its decision to continue a certification, or to withdraw a certification, together with the reasons for it, in such manner as it considers appropriate.”.
- (9) In subsection (10)—
 - (a) in the words before paragraph (a), for “10E(8)(a) and (b)” substitute “ 10E(8)(b) ”;
 - (b) in paragraph (a), for “10E(8)(a) and (b)” substitute “ 10E(8)(b) ”.
- (10) Where, immediately before [^{F27}IP completion day], the Gas and Electricity Markets Authority has made a preliminary decision under section 10L of the Electricity Act 1989 on a review under section 10I(5) or (8), but not a final decision under [^{F28}Article 51 of the Electricity Regulation (or Article 3 of its predecessor)], the Authority's preliminary decision is to be treated on and after [^{F27}IP completion day] as if it were a final decision under [^{F29}Article 51 of the Electricity Regulation] made immediately before [^{F27}IP completion day].
- (11) If a preliminary decision of the Gas and Electricity Markets Authority is treated as a final decision to continue a certification, or to withdraw a certification, because of paragraph (10), the Authority must publish, in such manner as it considers appropriate, a document setting out that decision and the reasons for it.

Textual Amendments

- F27** Words in reg. 52(10) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(21)(c)**
- F28** Words in reg. 52(10) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(21)(a)**
- F29** Words in reg. 52(10) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(21)(b)**

Commencement Information

- I51** Reg. 52 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 53.** In section 100 (interpretation of sections 10A to 10O), in subsection (1)—
- (a) in the definition of “certified”, for the words from “taken” to “certified) by” substitute “certified by”;
 - (b) in the definition of “person from a third country”, for “third country”, in both places, substitute “country outside the United Kingdom”;
 - (c) omit the definition of “third country”.

Commencement Information

- I52** Reg. 53 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 54.** In section 25 (orders for securing compliance), in subsection (8)—
- (a) in the definition of “regulated person” omit paragraph (e);
 - (b) in the definition of “relevant requirement”, omit paragraph (b) and the “and” before it.

Commencement Information

- I53** Reg. 54 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 55.** In the italic heading preceding section 44B, for “Article 37 Disputes” substitute “Section 44B disputes”.

Commencement Information

- I54** Reg. 55 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 56.—**(1) Section 44B (meaning of “Article 37 dispute”) is amended as follows.
- (2) In the title, for “Article 37” substitute “section 44B”.

- (3) In subsection (1)—
- (a) for “an “Article 37 dispute”” substitute “ a “section 44B dispute” ”;
 - (b) in paragraph (b), for the words from “under” to “Directive” substitute “ which falls within subsection (2A) ”.
- (4) After subsection (2) insert—
- “(2A) An obligation of the person complained against falls within this subsection if it is—
- (a) an obligation under a relevant condition or relevant requirement in relation to that person imposed before [F30IP completion day] for the purpose of implementing the Electricity Directive, including such an obligation as modified on or after [F30IP completion day], or
 - (b) an obligation under a relevant condition or relevant requirement in relation to that person imposed on or after [F30IP completion day] which, if it had been imposed immediately before [F30IP completion day], would have been an obligation imposed for the purpose of implementing the Electricity Directive.”.

Textual Amendments

- F30** Words in reg. 56(4) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(23)**

Commencement Information

- I55** Reg. 56 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

57.—(1) Section 44C (determination of disputes) is amended as follows.

- (2) In subsection (1), for “An Article 37” substitute “ A section 44B ”.
- (3) In subsection (2), for “An Article 37” substitute “ A section 44B ”.
- (4) In subsection (3), for “an Article 37” substitute “ a section 44B ”.

Commencement Information

- I56** Reg. 57 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

58.—(1) Section 44D (time limit for determinations) is amended as follows.

- (2) In subsection (1), for “an Article 37” substitute “ a section 44B ”.
- (3) In subsection (6)(a), for “an Article 37” substitute “ a section 44B ”.

Commencement Information

- I57** Reg. 58 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

59. In section 47 (general functions of the Gas and Electricity Markets Authority), after subsection (1C) insert—

“(1D) The references in subsection (1C) to the following provisions of the Electricity Directive are to be treated as references to those provisions with the following modifications—

- (a) Article 37(1)(q) is to be read as if for “Regulation (EC) No 714/2009” there were substituted “ the Electricity Regulation ”;
- (b) Article 37(1)(s) is to be read as if—
 - (i) the words “Community and third country” were omitted, and
 - (ii) after “operators” there were inserted “ in the United Kingdom and transmission system operators in countries outside the United Kingdom ”;
- (c) Article 37(1)(t) is to be read as if the reference to Article 42 were to Article 42 with the omission of the words from “must cause” to “market and”;
- (d) Article 37(3)(f) is to be read as if for “Regulation (EC) No 714/2009” there were substituted “ the Electricity Regulation ”.”.

Commencement Information

I58 Reg. 59 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

60.—(1) In section 64 (interpretation of Part 1), subsection (1) is amended as follows.

- (2) Omit the definition of “the CACM Regulation”.
- (3) Omit the definition of “designated regulatory authority”.
- (4) Omit the definition of “designated regulatory authority for Great Britain”.
- (5) Omit the definition of “nominated electricity market operator”.
- (6) At the appropriate place insert—

[^{F31}““designated regulatory function” means—

 - (a) a function of the Authority conferred by—
 - (i) a provision of retained EU law, or
 - (ii) a condition in a licence under section 6 as that condition is modified from time to time after IP completion day,where that function was, immediately before IP completion day, one of its functions as a regulatory authority designated in accordance with Article 35 of the Electricity Directive;
 - (b) a function of the Northern Ireland Authority as a regulatory authority designated in accordance with Article 35 of the Electricity Directive;”].
- (7) At the appropriate place insert—

““Northern Ireland Authority” means the Northern Ireland Authority for Utility Regulation;”.

Textual Amendments

F31 Words in reg. 60(6) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), [3\(24\)](#)

Commencement Information

I59 Reg. 60 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

61. In Schedule 2ZB (duties of supply exemption holders), in paragraph 8 (determination of exempt supply disputes), for “an Article 37” substitute “ a section 44B ”.

Commencement Information

I60 Reg. 61 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

62.—(1) Schedule 6A (provisions imposing obligations enforceable as relevant requirements) is amended as set out in paragraphs ^{F32}(1A) to (4A)].

^{F33}(1A) In paragraph 1 (relevant provisions in relation to all licence holders)—

- (a) omit paragraph (ca);
- (b) omit paragraph (f).]

^{F34}(2) In paragraph 4 (persons required to be certified as to independence)—

- (a) in paragraph (ca), omit—
 - (i) “the CACM Regulation,”;
 - (ii) “or the FCA Regulation”;
- (b) in paragraph (d)—
 - (i) in sub-paragraph (iv), for “16(1) to (4)” substitute “16(1), (2), (4)”;
 - (ii) omit sub-paragraph (v);
 - (iii) omit sub-paragraphs (viii) to (xi);
 - (iv) omit sub-paragraph (xiii);
- (c) omit paragraph (g).]

(3) In paragraph 9 (electricity undertakings which are relevant producers or suppliers)—

- (a) omit paragraph (e);
- (b) omit paragraph (f).

(4) Omit paragraph 9B (nominated electricity market operators).

^{F35}(4A) In paragraph 10 (interpretation), omit the definition of “the FCA Regulation”.]

(5) For the purposes of sections 27A to 28 of the Electricity Act 1989, a reference in Schedule 6A to the Electricity Act 1989 to a provision of retained direct EU legislation is to be treated on and after ^{F36}IP completion day] as including a reference to that provision as it had effect in EU law at any time before ^{F36}IP completion day].

Textual Amendments

F32 Words in reg. 62(1) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), [3\(25\)\(a\)](#)

- F33** Reg. 62(1A) inserted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(b)**
- F34** Reg. 62(2) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(c)**
- F35** Reg. 62(4A) inserted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(d)**
- F36** Words in reg. 62(5) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(e)**

Commencement Information

- I61** Reg. 62 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Utilities Act 2000

63. The Utilities Act 2000 ^{M6} is amended as follows.

Commencement Information

- I62** Reg. 63 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Marginal Citations

- M6** [2000 c. 27](#). Relevant amendments were made by [S.I. 2011/2704](#) and [2015/862](#).

64.—(1) Section 3A (designation of Gas and Electricity Markets Authority as regulatory authority for Great Britain) is amended as follows.

(2) For the heading substitute “ Exercise of designated regulatory functions etc ”.

(3) Omit subsection (1).

(4) In subsection (2)(a), for “functions as designated regulatory authority for Great Britain” substitute “ designated regulatory functions ”.

(5) Omit subsection (3).

Commencement Information

- I63** Reg. 64 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

65. Omit section 5ZA (report on activities as designated regulatory authority).

Commencement Information

- I64** Reg. 65 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

66. In section 33 (standard conditions of electricity licences), in subsection (1), omit paragraph (za).

Commencement Information

I65 Reg. 66 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

67. In section 81 (standard conditions of gas licences), in subsection (2), omit “under section 2(2) of the European Communities Act 1972,”.

Commencement Information

I66 Reg. 67 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

- 68.—(1) Section 105 (general restrictions on disclosure of information) is amended as follows.
- (2) In subsection (4)—
- (a) in paragraph (ga)—
- (i) after “requirement” insert “ or an EU REMIT requirement ”;
- (ii) after “of REMIT” insert “ or any proceedings brought under or by virtue of EU REMIT in a member State ”;
- (b) in paragraph (h), for “an” substitute “ a retained ”.
- (3) In subsection (6A), for “another national regulatory authority” substitute “ a national regulatory authority of a member State ”.
- (4) In subsection (10)—
- (a) at the appropriate place insert—
- ““EU REMIT” means Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (OJ L 326, 8.12.2011, p.1–16), as it has effect in EU law as amended from time to time;”;
- (b) at the appropriate place insert—
- ““EU REMIT requirement” means a requirement imposed by any of Articles 3(1) and (5), 4(1), (2) and (3), 5, 8(1) and (5), 9(1), (4) and (5) and 15 of EU REMIT;”;
- (c) in the definition of “national regulatory authority”, after “in” insert “ EU ”.

Commencement Information

I67 Reg. 68 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

69.—(1) Section 105A (restrictions on disclosure in respect of cross-border exchanges of information) is amended as follows.

- (2) In subsection (1)—

- (a) in paragraph (a), for “functions as designated regulatory authority for Great Britain” substitute “designated regulatory functions”;
 - (b) in paragraph (b), for the words from “the designated” to “Gas Directive” substitute “the Northern Ireland Authority for Utility Regulation in the exercise of its designated regulatory functions”.
- (3) After subsection (1) insert—
- “(1A) This section also applies to any information provided to the Authority on or after [F37IP completion day]—
- (a) for the purpose of enabling it to carry out its designated regulatory functions; and
 - (b) by an authority designated in accordance with Article 35 of the Electricity Directive or Article 39 of the Gas Directive.
- (1B) This section also applies to any information provided to the Authority before [F37IP completion day]—
- (a) for the purpose of enabling it to carry out its functions as an authority designated in accordance with Article 35 of the Electricity Directive or Article 39 of the Gas Directive; and
 - (b) by—
 - (i) the Northern Ireland Authority for Utility Regulation, or
 - (ii) an authority in another member State which is designated in accordance with Article 35 of the Electricity Directive or Article 39 of the Gas Directive, in accordance with Article 38(1) of the Electricity Directive or Article 42(1) of the Gas Directive.”.
- (4) In subsection (2)(a), for “the originating authority”, in the first place it occurs, substitute “the authority that provided the information to the Authority (“the originating authority”)”.
- (5) In subsection (3), for “Subsection (1)” substitute “Subsection (1), (1A) or (1B)”.

Textual Amendments

- F37** Words in reg. 69(3) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(26)**

Commencement Information

- I68** Reg. 69 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 70.** In section 106 (interpretation)—
- (a) omit the definition of “the Agency”;
 - (b) omit the definition of “the Agency Regulation”;
 - (c) omit the definition of “designated regulatory authority”;
 - (d) omit the definition of “designated regulatory authority for Great Britain”;
 - (e) at the appropriate place insert—
 - [F38““designated regulatory function” means—
 - (a) a function of the Authority conferred by—
 - (i) a provision of retained EU law,

- (ii) a condition in a licence under section 7, 7ZA or 7A of the 1986 Act, as that condition is modified from time to time on or after IP completion day, or
- (iii) a condition in a licence under section 6 of the 1989 Act, as that condition is modified from time to time on or after IP completion day, where that function was, immediately before IP completion day, one of its functions as a regulatory authority designated in accordance with Article 35 of the Electricity Directive or Article 39 of the Gas Directive;
- (b) a function of the Northern Ireland Authority conferred by—
 - (i) a provision of retained EU law, or
 - (ii) a condition in a licence under Article 8 of the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2)), as that condition is modified from time to time on or after IP completion day, where that function was, immediately before IP completion day, one of its functions as a regulatory authority designated in accordance with Article 39 of the Gas Directive;
- (c) a function of the Northern Ireland Authority as a regulatory authority designated in accordance with Article 35 of the Electricity Directive;”].

Textual Amendments

F38 Words in reg. 70(e) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), 3(27)

Commencement Information

I69 Reg. 70 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

71. In Schedule 1 (the Gas and Electricity Markets Authority), in paragraph 2A (certain duties of members of the Authority), for “functions as designated regulatory authority for Great Britain” substitute “ designated regulatory functions ”.

Commencement Information

I70 Reg. 71 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Energy Act 2004

72. The Energy Act 2004 ^{M7} is amended as follows.

Commencement Information

I71 Reg. 72 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Marginal Citations

M7 2004 c. 20. Relevant amendments were made by S.I. 2011/1043 and 2011/2704.

73. In section 137 (new standard conditions for transmission licences), in subsection (3), omit paragraph (za).

Commencement Information

I72 Reg. 73 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

74. In section 146 (standard conditions for electricity interconnectors), in subsection (5), omit “under section 2(2) of the European Communities Act 1972,”.

Commencement Information

I73 Reg. 74 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

75. In section 150 (standard conditions for gas interconnectors), in subsection (5), omit “under section 2(2) of the European Communities Act 1972,”.

Commencement Information

I74 Reg. 75 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

76. In Schedule 21 (energy transfer schemes), in paragraph 4 (provision that may be made by a scheme), in sub-paragraph (2)(f), omit “, EU instrument”.

Commencement Information

I75 Reg. 76 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

Consumers, Estate Agents and Redress Act 2007

77. In the Consumers, Estate Agents and Redress Act 2007^{M8}, in section 19A (guidance for energy consumers), in subsection (2), after “Gas Directive” insert “ which is in force immediately before [^{F39}IP completion day]”.

Textual Amendments

F39 Words in reg. 77 substituted (15.9.2020) by The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1016), regs. 1(2), 3(28)

Changes to legislation: There are currently no known outstanding effects for the The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019, PART 2. (See end of Document for details)

Commencement Information

I76 Reg. 77 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(1)

Marginal Citations

M8 2007 c. 17. Section 19A was inserted by S.I. 2011/2704.

Changes to legislation:

There are currently no known outstanding effects for the The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019, PART 2.