
EXPLANATORY NOTE

(This note is not part of the Regulations)

Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity (“the Electricity Directive”) repealed and replaced with amendments

- (a) [Directive 2009/72/EC](#) of the European Parliament and of the Council (“the IME3 Directive”); and
- (b) certain provisions of [Directive 2012/27/EU](#) of the European Parliament and of the Council (“the Energy Efficiency Directive”) which related to the electricity metering and billing.

These regulations amend the Electricity (Northern Ireland) Order 1992 (“the Electricity Order”), the Energy (Northern Ireland) Order 2003 (“the Energy Order”), and the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (“the SEM Order”) to ensure that they conform to the requirements of Articles 57 to 62 of the Electricity Directive and to update references in domestic legislation to other provisions of the IME 3 Directive and to the provisions of the Energy Efficiency Directive which the Electricity Directive replaced.

Part 1 of the Regulations contains introductory provisions.

Part 2 of the Regulations amends the Electricity Order. It consolidates Article 11A of that Order which requires the Authority to include in licences, conditions which ensure that the licence holder complies with certain requirements of the IME3 Directive. It also repeals parts of Article 11AC of that Order which requires the Authority to include in licences, conditions which ensure that the licence holder complies with certain requirements of the Energy Efficiency Directive.

Apart from replacing references in those and other provisions of the Electricity Order to the repealed provisions in the IME3 Directive and the Energy Efficiency Directive, with references to the corresponding provisions in the Electricity Directive, the Regulations make the following changes.

Regulation (EU) 2019/943 establishes Regional Coordination Centres (RCCs) to carry out certain tasks for the purpose of coordinating the activities of Transmission System Operators (TSOs). New Article 11A of the Electricity Order introduces new functions of the Northern Ireland Authority for Utility Regulations (“the Authority”) in relation to these RCCs. In particular it provides for TSOs to submit to the Authority for approval, the proposals for the RCC, including costs, resources and decision making processes for Northern Ireland and to provide information and in general assist it in relation to enforcement of the obligations on the RCC.

Article 11A of the Electricity Order also—

- (a) introduces a new duty for the Authority to approve products and procurement process for non-frequency ancillary services;
- (b) introduces a new duty to implement network codes and guidelines adopted pursuant to Articles 59, 60 and 61 of Regulation (EU) 2019/943;
- (c) adds in a new duty for the Authority to ensure that transmission system operators make available interconnector capacities to the utmost extent pursuant to Article 16 of Regulation (EU) 2019/943; and
- (d) provides for duties on the Authority to ensure that there is no cross-subsidisation between transmission, distribution and supply activities or other electricity or non-electricity activities.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 11B of the Electricity Order (which dealt with the provision of additional capacity or additional energy efficiency measures where insufficient capacity existed) is repealed as the obligations relating to this under the IME3 Directive has been repealed without replacement.

Changes to other provisions in the Electricity Order include widening the range of duties of the authority to monitor certain matters. These include monitoring and reporting on the development of a smart grid that promotes energy efficiency and monitoring and reporting on the performance of the system for the co-ordination of TSOs. The Authority is also required to monitor the integration of renewable sources of energy. The Electricity Order is also amended to provide the Authority with powers to require information about and carry out inspections of the premises of RCCs.

Part 3 of the Regulations amends the Energy Order. In particular it—

- (a) strengthens the safeguards for the independence of the Authority and requires the Authority to provide the European Commission with information so that it can report to the European Parliament in relation to its compliance with that principle of independence;
- (b) provides the Authority with the powers to co-operate with the Agency for the Co-operation of Energy Regulators and other regulatory bodies within the European Union in order to ensure that it and they can carry out their functions in accordance with the requirements; and
- (c) requires the Authority to make publically available the detailed methodology and underlying costs used for the calculation of the relevant network tariffs, while preserving the confidentiality of commercially sensitive information.

The Regulations also amend the scope of the enforcement powers under Part VI of the Energy Order so that it applies in relation to the enforcement of the duties of the RCCs and the TSOs in relation to them.

Part 4 of the Regulations amends the SEM Order to strengthen the safeguards for the independence of the Single Electricity Market Committee of the Authority. These changes parallel those made in relation to the Authority in the Energy Order.