

Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No. XXXX

**EXITING THE EUROPEAN UNION
ELECTRICITY**

**The Electricity (Risk-Preparedness)
(Amendment etc.) (EU Exit) Regulations 2020**

*Made - - - - - ***
Coming into force in accordance with regulation 1(1)*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(1).
In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Electricity (Risk-Preparedness) (Amendment etc.) (EU Exit) Regulations 2020 and come into force on IP completion day.
- (2) These Regulations extend to England and Wales and Scotland.

Amendments to Regulation (EU) 2019/941

2. Regulation (EU) 2019/941 of the European Parliament and of the Council of 5 June 2019 on risk-preparedness in the electricity sector is amended in accordance with the Schedule.

(1) 2018 c.16. Paragraph 21 of Schedule 7 was amended by the European Union (Withdrawal Agreement) Act 2020 (c. 1) section 41(4) and Schedule 5, Part 2, paragraphs 38 and 53(1) and (2).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Electricity (Risk-Preparedness) (Amendment etc.) (EU Exit) Regulations 2020 No. 1299*

Date

Name
Minister of State
Department for Business, Energy and Industrial
Strategy

SCHEDULE

Regulation 2

Amendments to Regulation (EU) 2019/941

1. In Article 1 (subject matter) omit—
 - (a) “for cooperation between Member States”;
 - (b) the words from “in a spirit” to the end.
2. For Article 2 (definitions) substitute—

“Article 2

Definitions

In this Regulation—

“aggregation” means the function of combining multiple customer loads or generated electricity for sale, purchase or auction in any electricity market;

“capacity allocation” means the attribution of cross zonal capacity;

“customer” means a wholesale or final customer of electricity;

“demand response” means the change of electricity load by final customers from their normal or current consumption patterns in response to market signals, including in response to time-variable electricity prices or incentive payments, or in response to the acceptance of the final customer’s bid to sell demand reduction or increase at a price in an organised market as defined in point (4) of Article 2 of Commission Implementing Regulation (EU) No 1348/2014, whether alone or through aggregation;

“distribution” means the transport of electricity on high-voltage, medium-voltage and low-voltage distribution systems with a view to its delivery to customers, but does not include supply;

“distribution system operator” means a person responsible for operating, ensuring the maintenance of and, if necessary, developing the distribution system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of electricity;

“electricity crisis” means a present or imminent situation in which there is a significant electricity shortage, as determined by the Secretary of State and described in the risk-preparedness plan, or in which it is impossible to supply electricity to customers;

“electricity undertaking” means a person who carries out at least one of the following functions—

- (a) generation;
- (b) transmission;
- (c) distribution;
- (d) aggregation;
- (e) demand response;
- (f) energy storage;
- (g) supply or purchase of electricity,

and who is responsible for the commercial, technical or maintenance tasks related to those functions but does not include final customers;

“energy storage” means, in relation to the electricity system, deferring the final use of electricity to a moment later than when it was generated, or the conversion of electrical

energy into a form of energy which can be stored, the storing of such energy, and the subsequent reconversion of such energy into electrical energy or use as another energy carrier;

“final customer” means a customer purchasing electricity for the customer’s own use;

“generation” means the production of electricity;

“non-market-based measure” means any supply-side or demand-side measure that deviates from rules in relation to the electricity market in Great Britain or commercial agreements, the purpose of which is to mitigate an electricity crisis;

“producer” means a person who generates electricity;

“the regulatory authority” means the Gas and Electricity Markets Authority;

“security of electricity supply” means the ability of an electricity system to guarantee the supply of electricity to customers with a clearly established level of performance, as determined by the regulatory authority;

“supply” means the sale, including the resale, of electricity to customers;

“transmission” means the transport of electricity on the extra high-voltage and high-voltage interconnected system with a view to its delivery to final customers or to distributors, but does not include supply;

“transmission system operator” means a person who is designated as an electricity transmission operator under section 10H of the Electricity Act 1989;

“wholesale customer” means a person who purchases electricity for the purpose of resale.”

3. Omit Article 3.

4. For Article 4 (assessment of risks to security of electricity supply) substitute—

“Article 4

Assessment of risks to security of electricity supply

The Secretary of State must ensure that all relevant risks relating to security of electricity supply are assessed in accordance with the rules laid down in this Regulation and in Chapter 4 of Regulation (EU) 2019/943 in so far as it applies as retained EU law. To that end, the Secretary of State must cooperate with the transmission system operator, distribution system operators, the regulatory authority and other relevant stakeholders as required.”.

5. Omit Articles 5 and 6.

6.—(1) Article 7 is amended as follows.

(2) In the heading, omit “national”.

(3) For paragraph 1 substitute—

“1. By 5 January 2021 the Secretary of State must identify electricity crisis scenarios.”.

(4) In paragraph 2—

(a) omit “national”;

(b) for “competent authority shall” substitute “Secretary of State must”;

(c) for “operators”, in the first place it occurs, substitute “operator”;

(d) for “competent authority”, in the second place it occurs, substitute “Secretary of State”;

(e) omit “where it is not the competent authority”.

(5) In paragraph 3—

- (a) omit the first sentence;
- (b) in the second sentence—
 - (i) for “Member States shall” substitute “The Secretary of State must”;
 - (ii) omit “national”.
- (6) Omit paragraph 4.
- 7. Omit Articles 8 and 9.
- 8.—**(1) Article 10 (establishment of risk-preparedness plans) is amended as follows.
 - (2) In paragraph 1—
 - (a) omit “regional and national”;
 - (b) for “Articles 6 and” substitute “Article”;
 - (c) for “competent authority of each Member State shall” substitute “Secretary of State must”;
 - (d) for “competent authority”, in the second place it occurs, substitute “Secretary of State”;
 - (e) after “transmission system”, for “operators” substitute “operator”;
 - (f) omit “where it is not the competent authority”.
 - (3) In paragraph 2—
 - (a) in the first sentence—
 - (i) omit “national”;
 - (ii) omit “, regional and, where applicable, bilateral measures”
 - (iii) for “Articles 11 and 12” substitute “Article 11”;
 - (b) omit the second sentence.
 - (4) In paragraph 3—
 - (a) in the first sentence, for “Articles 11 and 12” substitute “Article 11”;
 - (b) in the second sentence, for “Member States” substitute “the Secretary of State”.
 - (5) Omit paragraphs 4, 5 and 6.
 - (6) In paragraph 7—
 - (a) in the first sentence—
 - (i) for “competent authorities and the Commission shall” substitute “Secretary of State must”;
 - (ii) for “plans on their websites” substitute “plan”;
 - (b) omit the second sentence.
 - (7) For paragraph 8 substitute—

“8. The Secretary of State must adopt and publish the first risk-preparedness plan on or before 5 January 2022. The Secretary of State must update the risk-preparedness plan every four years, unless circumstances warrant more frequent updates.”.
- 9.—**(1) Article 11 (content for risk-preparedness plans) is amended as follows.
 - (2) In the heading, omit “as regards national measures”.
 - (3) In paragraph 1—
 - (a) in the words before point (a)—
 - (i) for “of each Member State shall” substitute “must”;

- (ii) omit “all national”;
 - (iii) for “Articles 6 and” substitute “Article”;
 - (iv) after “It”, for “shall” substitute “must”;
 - (b) in point (a)—
 - (i) for “defined for the relevant Member State and region,” substitute “identified”;
 - (ii) for “Articles 6 and” substitute “Article”;
 - (c) in point (b), for “competent authority” substitute “Secretary of State”;
 - (d) in point (c)—
 - (i) omit “national”;
 - (ii) for “Articles 6 and” substitute “Article”;
 - (e) omit point (d);
 - (f) in point (g), omit “and with regional and bilateral measures”;
 - (g) omit points (h) and (j).
- (4) Omit paragraph 2.
- 10.** Omit Articles 12 to 15.
- 11.**—(1) Article 16 (compliance with market rules) is amended as follows.
- (2) In paragraph 1—
 - (a) omit “internal”;
 - (b) after “electricity market” insert “in Great Britain”.
 - (3) In paragraph 2—
 - (a) in the second sentence—
 - (i) omit “internal”;
 - (ii) after “electricity market” insert “in Great Britain”;
 - (b) in the final sentence—
 - (i) for “competent authority shall” substitute “Secretary of State must”;
 - (ii) omit “in its Member State”.
 - (4) Omit paragraph 3.
- 12.** Omit Articles 17 and 18.
- 13.**—(1) Article 19 (treatment of confidential information) is amended as follows.
- (2) In paragraph 1—
 - (a) for “Member States and competent authorities shall” substitute “The Secretary of State must”;
 - (b) omit “national”;
 - (c) for “Member State or authority” substitute “Secretary of State”.
 - (3) In paragraph 2, for “The Commission, ACER, the ECG, the ENTSO for Electricity, Member States, competent authorities, regulatory authorities” substitute “The Secretary of State, the regulatory authority”.
- 14.** Omit Articles 20 to 23.

15. In the text after Article 24 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

16.—(1) The Annex (template for risk-preparedness plan) is amended as follows.

(2) In the words before paragraph 1, omit the words from “The following” to “the region”.

(3) In paragraph 1 (summary of the electricity crisis scenarios)—

(a) omit “at regional and national level”;

(b) for “Articles 6 and” substitute “Article”.

(4) In paragraph 2—

(a) in the heading, for “COMPETENT AUTHORITY” substitute “SECRETARY OF STATE”;

(b) for “competent authority” substitute “Secretary of State”.

(5) In paragraph 3.1—

(a) in the words before point (a), omit “National”;

(b) in point (c), omit the second sentence;

(c) in point (d)—

(i) omit the first and second sentences;

(ii) in the third sentence, after transmission system, for “operators” substitute “operator”.

(6) Omit paragraphs 3.2 and 4.

(7) In paragraph 5 (stakeholder consultations)—

(a) in point (d), for “regulatory authorities” substitute “the regulatory authority”;

(b) in point (e), for “operators” substitute “operator”.

(8) Omit paragraph 6.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a) to (d) and (g) of that Act) arising from the withdrawal of the United Kingdom from the European Union.

They amend Regulation (EU) 2019/941 of the European Parliament and of the Council of 5 June 2019 on risk-preparedness in the electricity sector and repealing [Directive 2005/89/EC](#).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.