

**EXPLANATORY MEMORANDUM TO**  
**THE ELECTRICITY AND GAS ETC. (AMENDMENT ETC.) (EU EXIT)**  
**REGULATIONS 2019**

**2019 No. 530**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument is one of a package of statutory instruments that will ensure that legislation governing the UK's energy systems will function effectively if the UK leaves the European Union ('EU') without a withdrawal agreement in place. It amends a range of primary and secondary law, of both domestic and European origin, to address inoperabilities caused by the UK's exit from the EU. Most notably this instrument will remove inoperabilities from the Gas Act 1986 and Electricity Act 1989, which apply in Great Britain; the Gas (Northern Ireland) Order 1996 and Electricity (Northern Ireland) Order 1992 which apply in Northern Ireland; and the EU's Electricity and Gas Regulations; which together form the legislative core of the UK's electricity and gas market regulatory frameworks. In addition, this instrument and several other Acts, Regulations and Orders will remove inoperabilities from related secondary legislation and revoke a number of EU regulations and decisions which will become retained EU law.

*Explanations*

What did any relevant EU law do before exit day?

- 2.2 The Gas Act 1986, Electricity Act 1989 and Utilities Act 2000 form the basis of Great Britain's ('GB') electricity and gas markets' regulatory framework. Together they establish the roles and responsibilities of Ofgem, the GB energy regulator, establish an energy licensing regime and set out the process for licensing transmission system operators (who administer the transmission system or 'national grid') and interconnectors (who operate the large electricity and gas lines linking different electricity and gas systems). In addition, they embed in law requirements set out in EU Directives (such as making the decisions of certain EU institutions binding on GB energy participants). These Acts are supplemented by primary and secondary legislation that develop GB's energy regulatory framework and incorporate subsequent EU legislation.

In Northern Ireland ('NI') energy policy is a transferred matter. As with the Gas and Electricity Acts in GB, the Electricity (Northern Ireland) Order 1992, Gas (Northern Ireland) Order 1996 and Energy (Northern Ireland) Order 2003 form the legislative foundations of NI's energy regulatory framework and establish the responsibilities of the Northern Ireland Authority for Utility Regulation ('the Utility Regulator'), the NI energy regulator, and a licensing framework. Similarly, these Orders are

supplemented by primary and secondary devolved legislation to incorporate subsequent EU law.

Regulation (EC) No 714/2009 of the European Parliament and of the Council on conditions for access to the network for cross-border exchanges in electricity ('the Electricity Regulation'), Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks ('the Gas Regulation') and Regulation (EC) No 713/2009 of the European Parliament and establishing an Agency for the Cooperation of Energy Regulators ('the Agency Regulation') form part of a programme of EU legislation known as the 'third energy package'. They were created to further integrate the Internal Energy Market by placing an obligation on Member States to liberalise European energy markets, encourage cooperation between actors in European energy markets, and establish EU-level frameworks for regulating electricity and gas markets. To assist this process, the Agency Regulation created the Agency for the Cooperation of Energy Regulators ('ACER') to coordinate energy regulator implementation of the third energy package and resolve disputes between Member State regulators.

Regulation (EU) No 347/2013 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure ('the TEN-E Regulation') sits separately from the third energy package programme and provides mechanisms and processes to facilitate the development of infrastructure projects that have demonstrable EU cross-border benefit.

Regulation (EC) No 663/2009 of the European Parliament and of the Council establishing a programme to aid economic recovery by granting Community financial assistance to projects in the field of energy ('the European Energy Programme for Recovery Regulation') sets out a programme of time limited funding packages to assist the energy sector in the wake of the 2007-9 financial crisis.

#### Why is it being changed?

- 2.3 On 29 March 2019, the European Union (Withdrawal) Act 2018 ('the Withdrawal Act') will incorporate into UK law directly applicable EU law and EU derived legislation as it applies immediately before exit day. If unamended, this retained EU law would contain numerous inoperabilities. These inoperabilities range from, for example, references to EU Member States, to more significant issues, such as obligations for UK bodies to accept binding decisions from the European Commission. Failure to remove these inoperabilities will create significant uncertainty and inefficiency in the operation of Great Britain's and Northern Ireland's market regulation, the role and functions of UK and EU bodies in the market, and requirements on market participants. Together this uncertainty could result in increased wholesale prices and threaten the continued functioning of the Single Electricity Market (SEM) in Northern Ireland and Ireland. Further detail on the inoperabilities being resolved can be found in paragraphs 7.1 to 7.11.

#### What will it now do?

- 2.4 As set out in detail in Section 7, this instrument will amend retaining EU law relating to energy to make it 'workable' by remedying deficiencies whilst retaining regulatory functions and frameworks needed to keep GB and NI energy markets working effectively. This instrument does so through amending over 20 pieces of primary and secondary retained EU law. The deficiencies dealt with by this instrument are

numerous and it would not be practical to list them all here. However, notable changes being made by this instrument to ensure the continued working of GB and NI energy markets include: removing the role of the European Commission and jurisdiction of the ACER, amending UK energy regulators' statutory objectives to reflect the UK's exit from the EU and revocation of the Agency Regulation (which sets out the rules governing ACER and would not be applicable in a non-EU context). Through these amendments, this instrument will maintain the operability and integrity of the UK's energy legislation and maximise continuity for UK industry and consumers.

### **3. Matters of special interest to Parliament**

#### *Matters of special interest to the Joint Committee on Statutory Instruments*

#### 3.1 None

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

#### 3.2 The territorial application of this instrument includes Scotland and Northern Ireland.

### **4. Extent and Territorial Application**

4.1 The extent of this instrument is the United Kingdom, except that Part 2, other than regulations 2 to 6, and Part 3 extend to England and Wales and Scotland, and Part 4 extends to Northern Ireland.

4.2 The territorial application of this instrument is the United Kingdom, except that Part 2, other than regulations 2 to 6, and Part 3 apply to England and Wales and Scotland, and Part 4 applies to Northern Ireland.

### **5. European Convention on Human Rights**

5.1 The Minister of State, The Rt Hon Claire Perry MP has made the following statement regarding Human Rights:

‘In my view the provisions of the Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019 are compatible with the Convention rights.’

### **6. Legislative Context**

6.1 On 29 March 2017 the Prime Minister triggered Article 50 of the Treaty on European Union and started the UK's exit from the European Union. To ensure business and legislative continuity for the UK, following over 40 years of EU membership, the Withdrawal Act will incorporate directly applicable EU legislation into domestic law at the moment of EU exit.

6.2 This instrument uses powers set out in section 8(1) of the Withdrawal Act to resolve ‘deficiencies’ caused by EU exit found in over 20 pieces of domestic and EU legislation relating to energy over 20 pieces of domestic and EU legislation relating to energy. In this context, ‘deficiencies’ are defined and listed in section 8(2) and 8(3) of the Act and includes retained EU law which has no practical application in the UK or confers functions to EU bodies that no longer have a function in relation to the UK.

- 6.3 The retained EU law amended by this instrument relates mainly to a legislative programme to harmonise energy markets across the EU (known as the ‘third energy package’) and includes both domestic legislation and retained direct EU legislation.
- 6.4 Energy is a transferred matter in Northern Ireland, and Great Britain and Northern Ireland have mostly separate legislation relating to electricity and gas.
- 6.5 The core pieces of domestic electricity and gas legislation that were amended to bring in the third energy package are: the Gas Act 1986, Electricity Act 1989 and the Utilities Act 2000, which apply in Great Britain, and the Electricity (Northern Ireland) Order 1992, Gas (Northern Ireland) Order 1996 and Energy (Northern Ireland) Order 2003 which apply in Northern Ireland. Together these Acts and Orders establish the roles and responsibilities of Ofgem and the Utility Regulator, set out energy licencing regimes, and implement provisions of EU Directives, principally the Electricity Directive (Directive 2009/72/EC) and the Gas Directive (Directive 2009/73/EC). This instrument amends these Acts and Orders, and makes more limited amendments to several other domestic enactments.
- 6.6 The main instruments of retained direct EU legislation which implemented the third energy package are: the Agency Regulation, the Electricity Regulation, Gas Regulation. Together these regulations set out the roles and responsibilities of key electricity and gas authorities and industry participants (such as energy regulators), put in place processes to harmonise energy markets across the EU and created ACER. This instrument amends the Electricity and Gas Regulation, and revokes the Agency Regulation. In addition, it also revokes the TEN-E Regulation and the European Energy Programme for Recovery Regulation, among other Regulations. The TEN-E Regulation provides for the designation of energy infrastructure projects that contribute to European energy networks as ‘projects of common interest’ and the European Energy Programme for Recovery Regulation establishes funding schemes which are spent in relation to the United Kingdom.
- 6.7 Provisions of the Electricity Regulation and Gas Regulation which confer legislative functions on the European Commission are being amended separately by the Electricity and Gas (Powers to Make Subordinate Legislation) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1286).
- 6.8 In addition, four further statutory instruments under section 8(1) of the Withdrawal Act are to be made alongside this instrument, to remove inoperabilities from other pieces of retained EU law that implement the third energy package, such as the European electricity and gas network codes, or make other provision about electricity and gas markets or systems. Those instruments are:
- The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 The Electricity Network Codes and Guidelines (Markets and Trading) (Amendment etc.) (EU Exit) Regulations 2019
  - The Electricity Network Codes and Guidelines (System Operation and Connection) (Amendment etc.) (EU Exit) Regulations 2019
  - The Electricity and Gas (Market Integrity and Transparency) (Amendment) (EU Exit) Regulations 2019

## 7. Policy background

### *What is being done and why?*

- 7.1 The aim of this instrument is to remove or amend deficiencies found in the legislation mentioned in Section 6 to ensure the UK's energy markets continue to operate effectively and to maximise continuity for UK industry and consumers should the UK leave the EU without a Withdrawal Agreement. The majority of these deficiencies are small and include redundant references to EU institutions or terminology found in the processes, definitions and obligations that together make the UK's energy regulatory framework. An example of this 'typical' type of deficiency is an obligation in the Electricity Act 1989 for the regulator Ofgem to notify the European Commission when it certifies a new transmission system operator as meeting "unbundling" requirements to operate in Great Britain. The number of deficiencies dealt with by this instrument are numerous and it would not be practical to list them all. However, the following paragraphs highlight amendments that go beyond removing 'typical' deficiencies described above.

### *Amendments to domestic legislation*

- 7.2 The most notable amendments this instrument makes to the domestic legislation, listed in Section 6.5, are: removing the role of the European Commission from the transmission system operator certification process, removing the ability of EU institutions to make 'binding decisions' on UK energy actors post-exit and amending the duties of the UK energy regulators to reflect the UK's exit from the EU. These issues are described below and, unless specified, this instrument's approach is mirrored in both Great Britain and Northern Ireland.
- 7.3 The UK's energy regulators are obligated to ensure key actors (such as transmission system operators) are not able to manipulate the energy system through owning generating stations or similar assets (known as 'unbundling'). To ensure this, the regulators review all applicants who wish to operate as a transmission system operator or to operate an interconnector and certify they are 'unbundled' through a process set out in the Electricity and Gas Acts and Orders (known as the 'certification process'). The European Commission is consulted as part of this process and has the ability to veto a decision made by the regulator (to ensure Member State regulators do not deviate from EU law). This instrument removes the oversight and veto roles of the European Commission from this process as the UK will no longer be a Member State and the European Commission will not have authority in the UK energy sector.
- 7.4 Alongside amending the certification process, this instrument removes the ability of the European Commission and ACER to make binding decisions on UK energy actors after the UK has left the EU.
- 7.5 To reflect the UK's exit from the EU, this instrument amends, in a limited manner, the high-level statutory objectives of the UK's regulators. For example, removing the regulators' obligation to develop regional energy markets within the European Community.

### *Amendments to domestic legislation specific to Northern Ireland*

- 7.6 The majority of amendments made by this instrument are mirrored in legislation applying to Northern Ireland and Great Britain. One notable difference between the two similar sets of laws is the prevalence of direct references to the Electricity and

Gas Directives in Northern Ireland's domestic legislation in comparison to Great Britain's. This difference stems from the different legislative drafting approaches adopted by lawmakers in Stormont and Westminster. The Withdrawal Act does not incorporate Directives into UK law, however, domestic legislation covering Northern Ireland and Great Britain includes obligations described in Directives (albeit in a limited manner in domestic legislation made in Westminster); for example, requiring regulators to engage in activities listed in Article 37 of the Electricity Directive. To ensure continuity for industry, and that legislation continues to operate after exit, direct references to the Directives will be largely retained and amended to remove inoperabilities listed by the Withdrawal Act. The parts of the Directives referenced in domestic legislation will be read as they applied on exit day; they will not be updated if the EU amends the Directives and can be amended through future legislation passed in Westminster and Stormont.

- 7.7 Since 2007, Northern Ireland has shared a wholesale electricity market with Ireland, the all-Ireland Single Electricity Market ('SEM'). The SEM was established following the signing of a Memorandum of Understanding by the UK and Irish governments in 2006 and required parallel legislation to be enacted in Northern Ireland and Ireland. This instrument makes a minor amendment to the relevant Northern Ireland legislation, the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007, to reflect the UK's exit from the EU. It does not, however, amend the definition of the SEM, which references EU rules governing cross-border trade in electricity which will not apply in the UK after exit. This is due to a practical need for the definitions of the SEM in Ireland's and Northern Ireland's legislation to continue to align (which they currently do). The intention is to use the powers of the Withdrawal Act to amend the definition of the SEM in due course in parallel with Ireland when a definition is agreed with Ireland. This course of action will better preserve the stability of the SEM than amending the definition unilaterally in Northern Ireland legislation.

#### Amendments to retained direct EU legislation

- 7.8 The Electricity and Gas Regulations establish harmonised rules for cross border exchanges in electricity and the operation of natural gas networks to promote the efficient functioning of electricity and gas markets across the EU. This instrument resolves deficiencies following the UK's exit from the EU and is designed to ensure that requirements and processes for UK bodies and businesses remain largely unchanged. Most notably this instrument amends the Electricity and Gas Regulations to remove the role of the European Commission from the certification process (which is also present in UK domestic legislation, see Section 7.2) and revokes Articles providing for the creation of the European Network of Transmission System Operators for Gas and European Network of Transmission System Operators for Electricity (cross-European coordination bodies) and the rules governing them, which will be redundant when incorporated into the UK statute book.

#### Revocation of retained direct EU legislation

- 7.9 This instrument also revokes a number of EU Regulations and Decisions, including: the Agency Regulation, the TEN-E Regulation and the European Energy Programme for Recovery Regulation which established EU funding schemes that are now spent.
- 7.10 Following the UK's exit from the EU, the UK's energy regulators will not be voting members of ACER and ACER will not have jurisdiction in the UK. The content of

this Regulation will therefore not be operable in a domestic context after the UK leaves the EU, and this instrument will revoke the Agency Regulation.

- 7.11 The revocation of the TEN-E Regulation is accompanied by savings provisions which preserve the benefit of streamlined planning arrangements for infrastructure projects which have been designated as projects of common interest under the Regulation and have already entered the formal planning stage before exit day. This aims to provide continuity of permitting timelines for a project promoter who has a cross-border project shared with an entity in a Member State.

#### Amending Energy Legislation in Northern Ireland

- 7.12 This instrument applies to energy, which is a transferred matter for Northern Ireland under the Northern Ireland Act 1998. The UK Government remains committed to restoring devolution in Northern Ireland. This is particularly important in the context of EU Exit where we want devolved Ministers to take the necessary actions to prepare Northern Ireland for exit. We have been considering how to ensure a functioning statute book across the UK including in Northern Ireland for exit day in the absence of a Northern Ireland Executive. With exit day approaching, and in the continued absence of a Northern Ireland Executive, the window to prepare Northern Ireland's statute book for exit is narrowing. UK Government Ministers have therefore decided that in the interest of legal certainty in Northern Ireland, the UK Government will take through the necessary secondary legislation at Westminster for Northern Ireland, in close consultation with the Northern Ireland departments. This is one such instrument.

### **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

### **9. Consolidation**

- 9.1 Not relevant.

### **10. Consultation outcome**

- 10.1 Statutory instruments made under the powers in the European Union (Withdrawal) Act 2018 do not require consultation, and a consultation has not been conducted for this instrument. Technical and factual input relevant to this instrument has been provided by the UK's energy regulators, Ofgem and the Utility Regulator, and by the Northern Ireland Department for the Economy. A letter notifying the Northern Ireland Department for the Economy, detailing the intention to legislate and the content of the statutory instruments, has been sent, and a response from the Department noting the intention to legislate has been received.

### **11. Guidance**

- 11.1 Guidance has not been produced for this instrument.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the impacts are below the threshold required to carry out a full impact assessment. This instrument transfers obligations from European bodies such as the European Network of Transmission System Operators for Electricity, European Network of Transmission System Operators for Gas and the Agency for the Cooperation of Energy Regulators to UK bodies such as the UK's energy regulators and transmission system operators as well as removing obligations on UK bodies to share information or co-ordinate with EU bodies. Key stakeholders including Ofgem, National Grid, the Northern Ireland Department for the Economy, the Utility Regulator and Premier Transmission Limited (Northern Ireland's gas transmission system operator) have been consulted and concluded that any direct impacts on business or public bodies that have been identified are considered to be negligible (less than £100,000 per year in total).

## **13. Regulating small business**

- 13.1 No specific action is proposed to minimise regulatory burdens on small businesses.
- 13.2 The basis for this decision is that the scale of the impacts identified in connection with this instrument is small, and they do not fall disproportionately on small businesses.

## **14. Monitoring & review**

- 14.1 The Department does not intend to monitor this instrument.
- 14.2 As this instrument is made under the European Union (Withdrawal) Act 2018, no review clause is required.

## **15. Contact**

- 15.1 Benjamin Meggitt or Josh Watts at the Department for Business, Energy and Industrial Strategy Telephone: 020 7215 3365 / 020 7215 0280 or email: [dyer-meggitt.jobshare@beis.gov.uk](mailto:dyer-meggitt.jobshare@beis.gov.uk) / [josh.watts@beis.gov.uk](mailto:josh.watts@beis.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Jane Walker, Deputy Director for Energy Markets and Affordability at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Minister of State, The Rt Hon Claire Perry MP at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.



# Annex

## Statements under the European Union (Withdrawal) Act 2018

### Part 1

#### Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.  State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

## Part 2

### Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

#### 1. Appropriateness statement

1.1 The Minister of State, The Rt Hon Claire Perry MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

‘In my view the Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019 do no more than is appropriate’.

1.2 This is the case because:

- All amendments made by this instrument resolve deficiencies as defined in Section 8 of the Withdrawal Act, such as removing the role of the European Commission from the transmission system operator certification process and its power of veto.
- The vast majority of amendments made by this instrument resolve minor deficiencies in the legislation, such as references to EU institutions.
- Regulation (EC) No 713/2009 (‘the Agency Regulation’), Regulation (EC) No 663/2009 (‘the European Energy Programme for Recovery Regulation’) are revoked and Regulation No 347/2013 (‘the TEN-E Regulation’) is revoked with a savings provision by this instrument because they are composed entirely or contain articles that will be inoperable in the UK post exit (such as rules governing the funding of EU institutions).

#### 2. Good reasons

2.1 The Minister of State, The Rt Hon Claire Perry MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

‘In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action’.

2.2 These reasons are that, without amendment, energy legislation incorporated by the Withdrawal Act would impinge on the efficient running of Great Britain’s (GB) and Northern Ireland’s (NI) energy markets. Specifically, continued references to EU institutions and process would create significant uncertainty and inefficiency in the operation of GB and NI market regulation, the role and functions of UK and EU bodies in the market, and requirements on market participants. The amendments and revocations made by this instrument, detailed in paragraphs 7.1 to 7.12, will maximise continuity for businesses by preserving the current formation of energy regulation and legislation, where possible, while removing legislation which will become redundant post-exit (such as rules on funding the Agency for the Cooperation of Energy Regulators).

#### 3. Equalities

3.1 The Minister of State, The Rt Hon Claire Perry MP has made the following statement:

‘The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.’

- 3.2 The Minister of State, The Rt Hon Claire Perry MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

‘In relation to the draft instrument, I, Claire Perry have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.’

- 3.3 This instrument has no, or no significant, differential impact on those with protected characteristics under the Equality Act 2010.

#### **4. Explanations**

- 4.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.