
DRAFT STATUTORY INSTRUMENTS

2018 No.

The Electricity and Gas (Powers to Make Subordinate Legislation) (Amendment) (EU Exit) Regulations 2018

PART 2

Amendments to retained direct EU legislation

CHAPTER 3

Amendment of REMIT

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15. REMIT is amended as follows.

Amendment of Article 2

16. In Article 2 (definitions), after paragraph (8) insert—

“(8A) ‘national authority’ means—

- (a) the Secretary of State, in relation to Great Britain;
- (b) the Secretary of State or the Northern Ireland department, in relation to Northern Ireland;

(8B) ‘the Northern Ireland department’ means the Department for the Economy;”.

Amendment of Article 6

17.—(1) Article 6 (technical updating of definitions of inside information and market manipulation) is amended as follows.

(2) In paragraph 1—

- (a) for the words from the beginning to “Article 20” substitute “A national authority may, by regulations, amend this Regulation”; and
- (b) in subparagraph (a), omit “Union”.

(3) In paragraph 2—

- (a) in the words before subparagraph (a), for “delegated acts” substitute “regulations”;
- (b) in subparagraph (d), after “adopted” insert “, or regulations made”.

Amendment of Article 8

18.—(1) Article 8 (data collection) is amended as follows.

(2) In paragraph 1, for “the Agency” substitute “the national regulatory authority”.

(3) In paragraph 2—

- (a) in the first subparagraph, for “The Commission shall, by means of implementing acts”, substitute “A national authority may, by regulations”;
- (b) in the second subparagraph—
 - (i) omit the first sentence; and
 - (ii) in the second sentence, for “They” substitute “Regulations under this paragraph”.
- (4) In paragraph 3, in the second subparagraph—
 - (a) for “the implementing acts referred to in”, substitute “regulations under”; and
 - (b) for “the Agency” substitute “the national regulatory authority”.
- (5) In paragraph 5, for “the Agency and national regulatory authorities”, substitute “the national regulatory authority”.
- (6) In paragraph 6—
 - (a) in the first subparagraph, for “The Commission shall, by means of implementing acts”, substitute “A national authority may, by regulations”;
 - (b) in the second subparagraph—
 - (i) omit the first sentence; and
 - (ii) in the second sentence, for “They” substitute “Regulations under this paragraph”.
- (7) After paragraph 6 insert—
 - “7. The powers to make regulations under paragraphs 2 and 6 include power to amend or replace any provision of an implementing act which—
 - (a) was made by the Commission under those paragraphs as they applied before exit day; and
 - (b) is retained direct EU legislation.”.

Omission of Articles 20 and 21

- 19. Omit Article 20 (exercise of the delegation) and Article 21 (committee procedure).

Insertion of new Article 21A: regulations

- 20. Before Article 22 insert—

“Article 21A

Regulations made by the Secretary of State

1. Any power to make regulations conferred on the Secretary of State by this Regulation is exercisable by statutory instrument.
2. Such regulations may—
 - (a) include supplementary, incidental, consequential, transitional, transitory or saving provision; and
 - (b) make different provision for different cases.
3. Before the Secretary of State makes regulations which apply to Northern Ireland, the Secretary of State must consult the Northern Ireland department.
4. A statutory instrument containing regulations made under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

Article 21B

Regulations made by the Northern Ireland department

1. Any power to make regulations conferred on the Northern Ireland department by this Regulation is exercisable by statutory rule for the purpose of the Statutory Rules (Northern Ireland) Order 1979.
2. Such regulations may—
 - (a) include incidental, supplemental, consequential and transitional provision; and
 - (b) make different provision for different cases.
3. Statutory rules containing regulations made under this Regulation are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) Act 1954⁽¹⁾ as if they were a statutory instrument within the meaning of that Act.”.

⁽¹⁾ 1954 c. 33.