

Draft Regulations laid before Parliament under section 330(5) and 331(3) of the Energy Act 2023 (c. 52), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2024 No. ****

ENERGY

**The Energy Act 2023 (Consequential Amendments) Regulations
2024**

Made - - - -

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 330(1) and (2) of the Energy Act 2023(a).

In accordance with sections 330(5) and 331(3) of that Act a draft of this instrument was laid before and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Energy Act 2023 (Consequential Amendments) Regulations 2024 and, subject to paragraph (2), come into force immediately after the coming into force of section 166(2) of the Energy Act 2023(b).

(2) This regulation and regulations 2(2) to (7), 2(10)(a) and (c), 3(3), 3(8), 4, 5(4), 5(5), 5(7), 24, 26, 33, 34 and 35 come into force on the day after the day on which these Regulations are made.

(3) Subject to paragraphs (4) and (5), these Regulations extend to England and Wales, Scotland and Northern Ireland.

(4) Subject to paragraph (5), any amendment, repeal or revocation made by these Regulations has the same extent as the provision amended, repealed or revoked.

(5) The amendments made by regulations 40, 41, 42, 44, 46 and 48 do not extend to Northern Ireland.

(a) 2023 c. 52.

(b) Section 166(2) is brought into force on such day or days as the Secretary of State by regulations appoints, see section 334(1) of the Energy Act 2023.

PART 2

Amendment of Primary Energy Legislation

Amendments to the Gas Act 1986

- 2.—(1) The Gas Act 1986(a) is amended as follows.
- (2) In section 4AA (the principal objective and general duties of the Secretary of State and the Authority)(b)—
- (a) in subsection (2)(b)(c), after “Energy Act 2010, or” insert “Chapter 1 of Part 2, Chapters 2 and 3 of Part 4 and”;
 - (b) in subsection (8)(d), in the definition of “licence”, for “or 7AB” substitute “, 7AA, 7AB or 7AC”.
- (3) In section 7B (licences: general)(e), after subsection (2B)(f) insert—
- “(2C) Subsections (1) to (2A) do not apply to an application for a code manager licence.”.
- (4) In section 8(1) (standard conditions of licences)(g)—
- (a) omit “or” after paragraph (b);
 - (b) after paragraph (c), insert “or
 - (d) licences under section 7AC,”.
- (5) In section 23 (modification of conditions of licences)(h), in subsection (1)(b), for “or 7A(1) or (2)” substitute “7A(1) or (2) or 7AC”.
- (6) In section 23B(2)(b) (appeal to the CMA)(i), for “or 7AB” substitute “, 7AA, 7AB or 7AC”.
- (7) In section 27 (modification by order under other enactments)(j), in subsection (1)(b), after “subsection (2) of that section” insert “or licences under section 7AC above”.
- (8) In section 27B(1)(a) (meaning of “section 27B dispute”)(k)—
- (a) omit “or” after sub-paragraph (v);
 - (b) after sub-paragraph (vi), insert “or
 - (vii) made against the holder of a gas system planner licence;”.
- (9) In section 36 (keeping of register)(l)—
- (a) in subsection (1), for “or 7AB” substitute “, 7AA, 7AB or 7AC”;

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- (a) 1986 c. 44.
 - (b) Section 4AA was substituted for section 4 by the Utilities Act 2000 (c. 27), section 9.
 - (c) Subsection (2)(b) was amended by the Energy Act 2008 (c. 32), section 102(3), by the Energy Act 2010 (c.27), section 16(4)(b) and by the Energy Act 2023 (c. 52), section 248(3).
 - (d) The definition of “licence” in subsection (8) was amended by the Energy Act 2004 (c. 20), section 149(8)(a) and by S.I. 2012/2400, article 18(3).
 - (e) Section 7B was inserted by the Gas Act 1995 (c. 45), section 7.
 - (f) Subsection (2B) was inserted by S.I. 2012/2400.
 - (g) Section 8(1) was amended by the Utilities Act 2000 (c. 27), section 81(3) and by the Energy Act 2004 (c. 20) section 150(6).
 - (h) Section 23(1) and the rest of the section were substituted by the Gas Act 1995 (c. 45), paragraph 21 of Schedule 3 and by S.I. 2011/2704.
 - (i) Section 23B was inserted by S.I. 2011/2704 and section 23B(2)(b) was amended by S.I. 2012/2400.
 - (j) Section 27(1)(b) was amended by the Energy Act 2004 (c. 20), section 150(8).
 - (k) Section 27B(1) was inserted by S.I. 2009/1349 and was amended by S.I. 2011/2704 and S.I. 2019/530.
 - (l) Section 36 has been amended on a number of occasions but only the following amendments are relevant: subsections (1) and (2) were substituted by the Gas (Exempt Supplies) Act 1993 (c.1), section 3 and amended in respect of new licence activities by the Gas Act 1995 (c. 45), paragraph 42 of Schedule 3, by the Energy Act 2004 (c. 20), sections 149(8)(b), 183(2) and by S.I. 2012/2400.

- (b) in subsection (2)(d), for “or 7AB” substitute “, 7AA, 7AB or 7AC”.
- (10) In section 48(1) (interpretation of Part I and savings)(a)—
- (a) after the definition of “the CMA”, insert—
- ““code manager licence” means a licence under section 7AC;”;
- (b) after the definition of “gas supplier”, insert—
- ““gas system planner licence” means a licence under section 7AA;”;
- (c) in the definition of “licence”(b), for “or 7AB” substitute “, 7AA, 7AB or 7AC”.
- (11) In Schedule 4B (provisions imposing obligations enforceable as relevant requirements)(c)—
- (a) in paragraph 1, after “communication licence” insert “or code manager licence”;
- (b) after paragraph 3, insert—
- “Gas system planner*
- 3A Sections 163 to 165, 171 and 173 of the Energy Act 2023 (ISOP objectives, duties and related functions) are relevant provisions in relation to a person who holds a licence under section 7AA.”;
- (c) for the heading immediately before paragraph 9A, substitute “Holders of smart meter communication licences or code manager licences”;
- (d) in paragraph 9A, after “licence” insert “or a code manager licence”.

Amendments to the Electricity Act 1989

- 3.—(1) The Electricity Act 1989(d) is amended as follows.
- (2) In section 3A (the principal objective and general duties of the Secretary of State and the Authority)(e)—
- (a) in subsection (2)(b)(f), after “the Nuclear Energy (Financing) Act 2022 or” insert “Chapter 1 of Part 2, Chapters 2 and 3 of Part 4 and”;
- (b) in subsection (5)(a)(g), after “distribute, supply or participate in the transmission of electricity,” insert “to co-ordinate and direct the flow of electricity onto or over transmission systems by means of which the transmission of electricity takes place,”.
- (3) In section 6A (procedure for licence applications)(h)—
- (a) in subsection (1)(a), for “subsection (1A)” substitute “subsections (1A) and (1B)”;
- (b) after subsection (1A) insert—
- “(1B) This section does not apply to an application for a code manager licence.”.
- (4) In section 6BA (meaning of “relevant electricity project” etc.)(i)—
- (a) in subsection (3)(a), omit from “that does” to the end;

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- (a) To which there are amendments not relevant to these Regulations.
- (b) The definition of “licence “ was substituted by the Utilities Act 2000 (c. 27), paragraph 19(d) of Schedule 6 and amended by the Energy Act 2004 (c. 20), section 198(2) and by S.I. 2012/2400.
- (c) Schedule 4B was inserted by S.I. 2011/2704 and by S.I. 2012/2400. There are other amendments to Schedule 4B which are not relevant to these Regulations.
- (d) 1989 c. 29.
- (e) Section 3A was substituted for section 3 by the Utilities Act 2000 (c. 27), section 13.
- (f) Subsection (2)(b) was amended by the Energy Act 2023 (c. 52), section 248(6). There are other amendments to this subsection which are not relevant to these Regulations.
- (g) In subsection (5)(a), the words “distribute, supply or participate in the transmission of electricity” were substituted by the Energy Act 2004 (c. 20) paragraph 4 of Schedule 19.
- (h) Section 6A was substituted by the Utilities Act 2000 (c. 27), section 30.
- (i) Section 6BA was inserted by the Energy Act 2023 (c. 52) paragraph 2 of Schedule 15.

- (b) in subsection (4), for “a system operator electricity licence” substitute “an electricity system operator licence”.
- (5) In section 6CC(8) (competitive tenders: supplementary)(a), for “a transmission licence” substitute “a licence”.
- (6) In section 6G(6) (section 6F: meaning of “commissioning period”)(b), for “a transmission licence” substitute “a licence”.
- (7) In section 6H (sections 6C, 6F and 6G: modification of codes or agreements), in subsection (1)(a)(c), for “a relevant licence” substitute “a licence under section 6(1)”.
- (8) In section 8A(1) (standard conditions of licences)(d)—
- (a) for “or (d)” substitute “, (d) or (g)”;
 - (b) for “or supply licences” substitute “, supply licences or code manager licences”.
- (9) In section 35 (provisions supplementary to section 34)—
- (a) in subsection (1)(e), after “licence” insert “or an electricity system operator licence”;
 - (b) in subsection (2)(f), for “is authorised by a licence to participate in the transmission of electricity” substitute “holds a transmission licence or an electricity system operator licence”.
- (10) In section 43 (functions with respect to competition), in the words after subsection (3)(c)(g), for “or the use of electricity interconnectors” substitute “, the use of electricity interconnectors or the performance of the function of a code manager in relation to a designated electricity licence document.”.
- (11) In section 44B(1)(h) (meaning of a section 44B dispute)—
- (a) omit “or” after sub-paragraph (iv);
 - (b) after sub-paragraph (v), insert, “or
 - (vi) made against the holder of an electricity system operator licence;”.
- (12) In section 47 (general functions)(i), in the words after subsection (1)(b), after “heated by such heat,” insert “, to the performance of the function of code manager in relation to a designated electricity licence document”.
- (13) In section 58(1) (directions restricting the use of certain information)(j), after “transmission licence”, insert “, an electricity system operator licence or a code manager licence”.
- (14) In Schedule 6A (provisions imposing obligations enforceable as relevant requirements)(k)—
- (a) in paragraph 1, in the opening words, after “communication licence” insert “or a code manager licence”;
 - (b) after paragraph 4, insert—

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- (a) Section 6CC was substituted for the existing section by the Energy Act 2023 (c. 52) paragraph 3 of Schedule 15.
 - (b) Section 6G was amended, and subsection (6) was substituted for the existing subsection, by the Energy Act 2023 (c. 52) paragraph 6 of Schedule 15.
 - (c) Subsection (1) was amended by the Energy Act 2023 (c. 52) paragraph 7(2) of Schedule 15.
 - (d) Section 8A was inserted by the Utilities Act 2000 (c. 27); subsection (1) was substituted by the Energy Act 2004 (c. 20).
 - (e) Section 35(1) was amended by the Energy Act 2004 (c. 20), paragraph 12(2) of Schedule 19 .
 - (f) Section 35(2) was substituted by the Energy Act 2004 (c. 20), paragraph 12(3) of Schedule 19.
 - (g) Section 43(3)(c) was amended by the Energy Act 2004 (c. 20), sections 147(5) and 198(2).
 - (h) Section 44B(1) was amended by S.I. 2019/530.
 - (i) Section 47(1) was amended by S.I. 2012/2400.
 - (j) Section 58(1) was amended by the Energy Act 2004 (c. 20), paragraph 14 of Schedule 19.
 - (k) Schedule 6A was inserted by S.I. 2011/2704 and amended by S.I. 2012/2400, S.I. 2019/530 and S.I. 2020/96. There are other amendments to Schedule 6A which are not relevant to these Regulations.

“Electricity System Operator

- 4A The following are relevant provisions in relation to the holder of an electricity system operator licence—
- (a) each of the provisions mentioned in sub-paragraphs (ca) to (h) of paragraph 4 above;
 - (b) sections 26 to 29 of the Energy Act 2010 (adjustment of charges);
 - (c) sections 163 to 165, 171 and 173 of the Energy Act 2023 (ISOP objectives, duties and related functions).”;
- (c) in the heading immediately before paragraph 9A, after “holders” insert “and code manager licence holders”;
- (d) in paragraph 9A, in the opening words, after “licence” insert “or the holder of a code manager licence”.

Amendment of the Gas (Northern Ireland) Order 1996

4. In Article 11 of the Gas (Northern Ireland) Order 1996(a) (standard conditions of licences), in paragraph (2), after “Article 60(5) of the Energy (Northern Ireland) Order 2003” insert “and to section 89 of the Energy Act 2023”.

Amendment of the Utilities Act 2000

5.—(1) The Utilities Act 2000(b) is amended as follows.

(2) In section 5(2)(a) (annual and other reports of Authority)(c)—

- (a) omit “or” after sub-paragraph (i);
- (b) after sub-paragraph (ii), insert “or
 - (iii) the operation or maintenance of, or the supply of heating, cooling or hot water by means of, relevant heat networks (as defined in section 216 of the Energy Act 2023);”.

(3) In section 5A (duty of Authority to carry out impact assessment)(d)—

- (a) in subsection (1)(a), for “or Part 1 of the 1989 Act” substitute “, Part 1 of the 1989 Act or Part 8 of the Energy Act 2023”;
- (b) after subsection (2)(c), insert—
 - “(ca) have a significant impact on the carrying out by the Independent System Operator and Planner (within the meaning of Part 5 of the Energy Act 2023) of any of its functions;
 - (cb) have a significant impact on the carrying out by a code manager (within the meaning of Part 6 of the Energy Act 2023) of its functions—
 - (i) in relation to a designated gas licence document, or
 - (ii) in relation to a designated electricity licence document;
 - (cc) have a significant impact on persons engaged in—
 - (i) the operation or maintenance of, or the supply of heating, cooling or hot water by means of, relevant heat networks (as defined in section 216 of the Energy Act 2023), or

(a) S.I. 1996/275 (N.I. 2), amended by S.I. 2003/419 (NI 6), S.R. 2015/1 and S.R. 2013/92.

(b) 2000 c. 27.

(c) Section 5(2) was amended by S.I. 2015/862, regulations 1(1) and (4).

(d) Section 5A was inserted by the Sustainable Energy Act 2003 (c. 30), section 6.

- (ii) commercial activities connected with an activity mentioned in sub-paragraph (i);”.
- (4) In section 33 (standard conditions of electricity licences)(a)—
 - (a) in subsection (1)—
 - (i) in the opening words—
 - (aa) for “the commencement of subsection (3)” substitute “the relevant time”;
 - (bb) for “section 6(1)(a), (c) and (d)” substitute “section 6(1)(a), (c), (d) and (g)”;
 - (cc) for “distribution licences or supply licences” substitute “distribution licences, supply licences or code manager licences”;
 - (ii) in paragraph (1)(b), for “sections 245 to 247 of” substitute “sections 169, 245 to 247 of, and paragraph 4 of Schedule 12 to,”;
 - (b) after subsection (1), insert—

“(1A) In subsection (1), “the relevant time” means—

 - (a) where the determination relates to any of the types of licence mentioned in section 6(1)(a), (c) and (d) of the 1989 Act (generation licences, distribution licences or supply licences), the time when subsection (3) comes into force;
 - (b) where the determination relates to the type of licence mentioned in section 6(1)(g) of the 1989 Act (code manager licences), 26th October 2030(c).”.
- (5) In section 81 (standard conditions of gas licences)(d)—
 - (a) in subsection (1), for “or section 7A(2)”, substitute “, section 7A(2) or 7AC(1)”;
 - (b) in subsection (2)—
 - (i) for “the commencement of subsection (3)” substitute “the relevant time”;
 - (ii) for “section 89” to “Energy Act 2023” substitute “sections 89, 136(1) or (4), 169, 245 to 247 of, and paragraph 4 of Schedule 12 to, the Energy Act 2023”;
 - (c) after subsection (2), insert—

“(2A) In subsection (2), “the relevant time” means—

 - (a) where the determination relates to any of the types of licence mentioned in sections 7, 7A(1) or 7A(2) of the 1986 Act, the time when subsection (3) comes into force;
 - (b) where the determination relates to the type of licence mentioned in section 7AC of the 1986 Act (licence of a person performing code manager function), 26th October 2030(e).”.
- (6) In section 105 (general restrictions on disclosure of information)(f)—

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- (a) Section 33 was amended by the Energy Act 2004 (c. 20), Schedule 19 and the Energy Act 2023 (c. 52), section 248(7)(b). There are other amendments to subsection (1) which are not relevant to these Regulations.
 - (b) Paragraph (1) was inserted by the Energy Act 2023, section 248(7)(b). A correction slip for the Energy Act 2023 was published in February 2004 correcting the numbering of paragraph (k) inserted by section 248(7)(b) to paragraph (l).
 - (c) This date is seven years from the date of Royal Assent of the Energy Act 2023 (c.52) and links to the date specified in paragraph 3(b) of Schedule 12 to that Act.
 - (d) Section 81 was amended by the Energy Act 2023 (c. 52), section 91(13) and section 137(7). There are other amendments to subsection (2) which are not relevant to these Regulations.
 - (e) This date is seven years from the date of Royal Assent of the Energy Act 2023 (c.52) and links to the date specified in paragraph 3(b) of Schedule 12 to that Act.
 - (f) Section 105 was amended by the Energy Act 2023 (c. 52), paragraph 5(a) and (b) of Schedule 5, paragraph 8(2), (3) and (4) of Schedule 11, paragraph 26(2) of Schedule 15, paragraph 35 of Schedule 16. There are other amendments to subsections (1), (3) and (8) which are not relevant to these Regulations.

- (a) in subsection (1)(a), for “Part 1 of the Energy Act 2023 or Part 5 of that Act” substitute “Part 1, 5 or 6, or Chapter 1 of Part 8 of the Energy Act 2023”;
- (b) in subsection (3), after paragraph (ad) insert—
 - “(ae) it is made for the purpose of facilitating the performance of any functions of—
 - (i) any person under or by virtue of Chapter 1 of Part 8 of the Energy Act 2023,
 - (ii) a person designated as a Heat Network Zones Authority by regulations made by virtue of section 227(1) of that Act, or
 - (iii) a person designated as a heat network coordinator by regulations made by virtue of section 228(3)(a) of that Act;
 - (af) it is a disclosure of information that relates to relevant heat networks (as defined in section 216 of the Energy Act 2023) and it is made for the purpose of facilitating the performance of the functions of—
 - (i) the Scottish Ministers under the Climate Change (Scotland) Act 2009 (asp 12) or the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 (asp 10), or
 - (ii) any person under the Heat Networks (Scotland) Act 2021 (asp 9);”;
- (c) in subsection (8)—
 - (i) in paragraph (a), for “or section 32J or 48 of the 1989 Act” substitute “, section 32J or 48 of the 1989 Act or regulations made by virtue of paragraph 11(4) of Schedule 18 to the Energy Act 2023”;
 - (ii) in paragraph (c), for “or Part I of the 1989 Act” substitute “, Part 1 of the 1989 Act or regulations made by virtue of paragraph 41 of Schedule 18 to the Energy Act 2023”.

(7) In section 106(1) (interpretation)(a), in the definition of “gas licence”, for “or 7AB” substitute “, 7AA, 7AB or 7AC”.

Amendment of the Energy Act 2004

6. In section 184(13) of the Energy Act 2004 (assistance for areas with high distribution costs)(b), in the definition of “authorised transmitter”, for “a licence under section 6(1)(b)” to the end, substitute “a licence under section 6(1)(da) (an electricity system operator licence) of that Act;”.

Amendment of Energy Act 2008

7. In section 88 of the Energy Act 2008 (power to amend licence conditions etc: smart meters) (c)—

- (a) in subsection (1)(a)(d), for “or (d)” to the end of paragraph (a) substitute “, (d) or (da) of the Electricity Act 1989 (c. 29) (transmission, distribution, supply and electricity system operator licence)”;
- (b) in subsection (1)(e)(e), after “7A” insert “, 7AA”;
- (c) in subsection (6)(b)(f), after “7A” insert “, 7AA”;

(a) The definition of “gas licence” in section 106(1) was amended by S.I. 2012/2400 to insert references to licences under section 7A or 7AB of the Gas Act 1986.

(b) 2004 c. 20.

(c) 2008 c. 32.

(d) Subsection (1)(a) was amended by the Energy Act 2011 (c.16), section 73(2)(a) and (b).

(e) Subsection (1)(e) was amended by S.I. 2012/2400.

(f) Subsection (6)(b) was amended by S.I. 2012/2400.

(d) in subsection (6)(c)(a), after “section 6(1)(b), (c), (d)” insert “, (da)”.

Amendment of the Energy Act 2010

8. In section 12(1)(a) of the Energy Act 2010 (reconciliation mechanism: licence modifications)(b), for “section 6(1)(b) or (d)” to the end, substitute “section 6(1)(b), (d) or (da) of the Electricity Act 1989 (transmission, supply and electricity system operator licences)”.

Amendment of the Energy Act 2013

9.—(1) The Energy Act 2013(c) is amended as follows.

(2) In section 8(3) (definition of national system operator: Chapter 2 of Part 2), for “operating” to the end, substitute “designated as the Independent System Operator and Planner under section 162 of the Energy Act 2023.”.

(3) In section 26(1)(a) (licence modifications)—

(a) for “(b) or (c)” substitute “(c) or (da)”;

(b) for “transmission and distribution licences” substitute “distribution and electricity system operator licences”.

(4) In section 27(6) (definition of national system operator: Chapter 3 of Part 2), for “operating” to the end, substitute “designated as the Independent System Operator and Planner under section 162 of the Energy Act 2023.”.

(5) In section 37(1)(a) (licence modifications for the purpose of the capacity market), after “supply”, insert “, electricity system operator”.

(6) Omit section 45 (modification of transmission and other licences:business separation).

(7) In section 46 (power to transfer EMR functions)—

(a) in subsection (2), omit paragraph (b);

(b) in subsection (11)—

(i) omit the definition of “energy administration order”;

(ii) in the definition of “national system operator”, for “operating” to the end, substitute “designated as the Independent System Operator and Planner under section 162 of the Energy Act 2023.”.

(8) In section 47(10) (orders under section 46: fees and other supplementary provision)—

(a) in paragraph (a), for “transmission licence” to the end, substitute “licence granted to the national system operator under section 6(1)(da) of the EA 1989, or”;

(b) omit paragraph (b).

(9) In section 63(5) (definition of national system operator: section 63), for “operating” to the end, substitute “designated as the Independent System Operator and Planner under section 162 of the Energy Act 2023.”.

(10) In paragraph 4(1) of Schedule 2 (interpretation for the purposes of Schedule 2), in the definition of “national system operator” for “operating” to the end, substitute “designated as the Independent System Operator and Planner under section 162 of the Energy Act 2023;”.

(a) Subsection (6)(c) was amended by the Energy Act 2008 (c.32), section 73(6) and by S.I. 2012/2400.

(b) 2010 c. 27.

(c) 2013 c. 32.

PART 3

Amendment of Other Primary Legislation

Amendment of the Public Records Act 1958

10. In Part 2 of the table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (other establishments and organisations)(a) at the appropriate place insert—

“The Independent System Operator and Planner designated in accordance with section 162 of the Energy Act 2023.”.

Amendment of the House of Commons Disqualification Act 1975

11. In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices)(b) at the appropriate place insert—

“Director of a company which is designated as the Independent System Operator and Planner in accordance with section 162 of the Energy Act 2023.”.

Amendment of the Northern Ireland Assembly Disqualification Act 1975

12. In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices)(c) at the appropriate place, insert—

“Director of a company which is designated as the Independent System Operator and Planner in accordance with section 162 of the Energy Act 2023.”.

Amendment of the Land Drainage Act 1991

13. For paragraph 1(1)(f) of Schedule 6 to the Land Drainage Act 1991 (protection for particular undertakings)(d) substitute—

“(f) the undertaking of any person who holds a licence under Part 1 of the Electricity Act 1989;”.

Amendment of the Freedom of Information Act 2000

14. In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general)(e) at the appropriate place, insert—

“The Independent System Operator and Planner designated in accordance with section 162 of the Energy Act 2023 in respect of information held by it as a result of the exercise of its functions under, or as a consequence of, that Act.”.

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- (a) 1958 c. 51; Part 2 of the table has been amended a number of times but those amendments are not relevant to these Regulations.
- (b) 1975 c. 24; Part 3 of Schedule 1 has been amended a number of times but those amendments are not relevant to these Regulations.
- (c) 1975 c. 25; Part 3 of Schedule 1 has been amended a number of times but those amendments are not relevant to these Regulations.
- (d) 1991 c. 59; relevant amendments are Energy Act 2004, section 198(2) and paragraph 19 of Schedule 19.
- (e) 2000 c. 36; Part 6 of Schedule 1 has been amended a number of times but those amendments are not relevant to these Regulations.

Amendment of the Countryside and Rights of Way Act 2000

15. In section 85(3) of the Countryside and Rights of Way Act 2000 (general duties of public bodes etc.)(a), for the definition of “statutory undertaker” substitute—

““statutory undertaker” means a person—

- (a) who is or is deemed to be a statutory undertaker for the purposes of Part 11 of the Town and Country Planning Act 1990, or
- (b) who holds a gas system planner licence under section 7AA of the Gas Act 1986.”.

Amendment of the Enterprise Act 2002

16. In section 168 of the Enterprise Act 2002 (regulated markets)(b) is amended as follows—

- (a) in subsection (3)(c)(c), for “or 7AB” substitute “, 7AA, 7AB or 7AC”;
- (b) in subsection (4)(c)(d), for “or 7AB” substitute “, 7AA, 7AB or 7AC”;
- (c) in subsection (6)(e), for “or 7AB” substitute “, 7AA, 7AB or 7AC”.

Amendment of the Civil Contingencies Act 2004

17.—(1) Schedule 1 to the Civil Contingencies Act 2004 (category 1 and 2 responders)(f) is amended as follows.

(2) In paragraph 19, in sub-paragraph (2)—

- (a) omit “and” after paragraph (b);
- (b) after paragraph (b), insert—

“(ba) an electricity system operator licence,”.

(3) In paragraph 20, in sub-paragraph (2)—

- (a) omit “and” after paragraph (a);
- (b) after paragraph (b), insert, “and

(c) a licence under section 7AA of that Act.”.

(4) In paragraph 30, in sub-paragraph (2),—

- (a) omit “and” after paragraph (b);
- (b) after paragraph (b) insert—

“(ba) an electricity system operator licence,”.

(5) In paragraph 31, in sub-paragraph (2)—

- (a) omit “and” after paragraph (a);
- (b) after paragraph (b) insert, “and

(c) a licence under section 7AA of that Act.”.

(a) 2000 c. 37. The definition of “statutory undertaker” was inserted by the Natural Environment and Rural Communities Act 2006 (c. 16), section 85 and paragraph 165 of Schedule 11.

(b) 2002 c. 40.

(c) Section 168(3) was amended by S.I. 2012/2400.

(d) Section 168(4) was amended by S.I. 2012/2400.

(e) Section 168(6) was amended by the Enterprise and Regulatory Reform Act 2013 (c. 24), paragraph 198 of Schedule 5, by the Energy Act 2023 (c. 52), paragraph 8(4) of Schedule 5 and by S.I. 2012/2400.

(f) 2004 c. 36.

Amendment of the Nature Conservation (Scotland) Act 2004

18. In section 58(1) of the Nature Conservation (Scotland) Act 2004 (interpretation)(a), in the definition of “statutory undertaker”, after paragraph (d) insert—

“(da) a holder of a licence under section 7 or 7AA of the Gas Act 1986 (c. 44).”.

Amendment of the Natural Environment and Rural Communities Act 2006

19. In section 40(5) of the Natural Environment and Rural Communities Act 2006 (duty to conserve and enhance biodiversity)(b), for the definition of “statutory undertaker” substitute—

““statutory undertaker” means a person—

- (a) who is or is deemed to be a statutory undertaker for the purposes of Part 11 of the Town and Country Planning Act 1990, or
- (b) who holds a gas system planner licence under section 7AA of the Gas Act 1986 (c. 44).”.

Amendment of the Consumers, Estate Agents and Redress Act 2007

20.—(1) The Consumers, Estate Agents and Redress Act 2007(c) is amended as follows.

(2) In section 25(3) (enforcement by regulator of section 24 notice)(d), in the first column of the table, in the first row, for “or 7AB” substitute “, 7AA, 7AB or 7AC”.

(3) In section 29(3) (disclosure of information)(e), in paragraph (a), for “or the Utilities Act 2000 (c. 27)” substitute “, the Utilities Act 2000 (c. 27) or Part 8 of the Energy Act 2023 (c. 52)”.

Amendment of the Equality Act 2010

21. In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities: general)(f), under the heading “Industry, business, finance etc.”, at the appropriate place, insert—

“The Independent System Operator and Planner designated in accordance with section 162 of the Energy Act 2023 (c. 52).”.

Amendment of the Environment (Wales) Act 2016

22. In section 6(10) of the Environment (Wales) Act 2016 (biodiversity and resilience of ecosystems duty)(g)—

(a) in the Welsh text, in the definition “ymgymerwr statudol”, for paragraph (d) substitute—

“(d) deiliad trwydded o dan adran 7 neu 7AA o Ddeddf Nwy 1986 (p. 44);”;

(b) in the English text, in the definition of “statutory undertaker”, for paragraph (d) substitute—

“(d) a holder of a licence under section 7 or 7AA of the Gas Act 1986 (c. 44);”.

(a) 2004 asp 6.

(b) 2006 c. 16.

(c) 2007 c. 17.

(d) 2007 c. 17; the table in section 25 was amended by S.I. 2012/2400.

(e) Subsection (3) was amended by S.I. 2014/631 and by S.I. 2022/34.

(f) 2010 c. 15; the headed section of Part 1 of Schedule 19 has been amended a number of times but those amendments are not relevant to these Regulations.

(g) 2016 anaw 3; section 6(10) has amendments not relevant to these Regulations.

PART 4

Amendment of Secondary Legislation

Amendment of the Electricity Act 1989 (Uniform Prices in the North of Scotland) Order 2005

23. In article 5 of the Electricity Act 1989 (Uniform Prices in the North of Scotland) Order 2005 (use of transmission system charges)(a), after “the North of Scotland” insert “, or the holder of an electricity system operator licence,”.

Amendment of the Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) Regulations 2007

24. In regulation 9(1)(f)(ii) of the Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) Regulations 2007 (vessels and activities permitted in safety zones)(b), for “92(6)” substitute “6F(8) of the Electricity Act 1989”.

Amendment of the Renewables Obligation (Scotland) Order 2009

25. In article 33(4) of the Renewables Obligation (Scotland) Order 2009 (definition of “network operators”)(c)—

- (a) for “or (c)” substitute “, (c) or (da)”;
- (b) omit from “to participate” to the end.

Amendment of the Provision of Services Regulations 2009

26. In regulation 2(2) of the Provision of Services Regulations 2009 (services to which the Regulations do not apply)(d), after sub-paragraph (k) insert—

“(l) services provided by a person holding a licence (“a code manager licence”) under section 7AC of the Gas Act 1986 or section 6(1)(g) of the Electricity Act 1989.”.

Amendment of the Electricity and Gas Appeals (Designation and Exclusion) Order 2014

27.—(1) The Electricity and Gas Appeals (Designation and Exclusion) Order 2014(e) is amended as follows.

(2) In article 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “electricity supply licence” insert—

““electricity system operator licence” means a licence granted under section 6(1)(da) of the Electricity Act 1989;”;

(ii) omit the definition of “transmission licence”;

(b) after paragraph (2) insert—

(a) S.I. 2005/490.

(b) S.I. 2007/1948, to which there are amendments not relevant to these Regulations.

(c) S.S.I. 2009/140.

(d) S.I. 2009/2999, to which there are amendments not relevant to these Regulations.

(e) S.I. 2014/1293.

“(2A) A reference in this Order to a condition of an electricity system operator licence is to the version current at the date on which section 166(2) of the Energy Act 2023 (licensing of electricity system operator) came into force.”;

(c) in paragraph (3), after “paragraph (2)”, insert “or paragraph (2A)”.

(3) In article 3 (designation of document)—

(a) in paragraph (a), for "Standard Condition" to the end, substitute “Condition E1 of an electricity system operator licence”;

(b) in paragraph (b), for "Standard Condition" to the end, substitute “Condition E2 of an electricity system operator licence”.

Amendment of the Contracts for Difference (Electricity Supplier Obligations) Regulations 2014

28. In regulation 2(1) of the Contracts for Difference (Electricity Supplier Obligations) Regulations 2014 (interpretation)(a), in the definition of “the Balancing and Settlement Code”—

(a) after “Great Britain” insert “, as amended from time to time.”;

(b) for “transmission licences” to the end, substitute “an electricity system operator licence granted under section 6(1)(da) of the Electricity Act 1989”.

Amendment of the Power Purchase Agreement Scheme Regulations 2014

29. In regulation 2(1) of the Power Purchase Agreement Scheme Regulations 2014 (interpretation)(b) in the definition of “Balancing and Settlement Code”—

(a) after “Great Britain” insert “as amended from time to time.”;

(b) for “transmission licences” to the end, substitute “an electricity system operator licence granted under section 6(1)(da) of the Electricity Act 1989”.

Amendment of the Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2015

30. In regulation 3(1) of the Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2015 (interpretation)(c), after the definition of “construction phase contract”, insert—

““co-ordination licence” means a licence under section 6(1)(da) of the 1989 Act.”.

Amendment of the Renewables Obligation Order 2015

31. In article 42(3) of the Renewables Obligation Order 2015 (review of banding provisions)(d), in the definition of “network operators”—

(a) for “or (c)” substitute “, (c) or (da)”;

(b) omit from “to participate” to the end.

(a) S.I. 2014/2014, to which there are amendments not relevant to these Regulations.

(b) S.I. 2014/2511.

(c) S.I. 2015/1555.

(d) S.I. 2015/1947.

Amendment of the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017

32. In Schedule 2 to the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017(a), after the entry for “The Financial Conduct Authority”, insert—

“The Independent System Operator and Planner designated in accordance with section 162 of the Energy Act 2023.”.

Amendment of the Network and Information Systems Regulations 2018

33. In Schedule 2 to the Network and Information Systems Regulations 2018 (essential services and threshold requirements)(b) in paragraph 1(8)(h) (definition of offshore transmission licence and offshore transmission)—

- (a) for “section 6C(5) and (6)” substitute “section 6F(8)”;
- (b) omit “, respectively”.

Amendment of the Electricity (Applications for Licences, Modifications of an Area and Extensions and Restrictions of Licences) Regulations 2019

34. In regulation 3 of the Electricity (Applications for Licences, Modifications of an Area and Extensions and Restrictions of Licences) Regulations 2019 (interpretation)(c), for paragraph (4) substitute—

- “(4) These Regulations do not apply to applications in respect of—
- (a) an “offshore transmission licence” as defined in section 64 of the Act;
 - (b) an “electricity system operator licence” as defined in section 6(1)(da) of the Act;
 - (c) a “smart meter communication licence” as defined in section 6(1)(f) of the Act;
 - or
 - (d) a “code manager licence” as defined in section 6(1)(g) of the Act.”.

Amendment of the Gas (Applications for Licences and Extensions and Restrictions of Licences) Regulations 2019

35. In regulation 3 of the Gas (Applications for Licence and Extensions and Restrictions of Licences) Regulations 2019 (interpretation)(d), for paragraph (4) substitute—

- “(4) These Regulations do not apply to applications in respect of—
- (a) a “smart meter communication licence” as defined in section 7AB(1) of the Act;
 - or
 - (b) a “code manager licence” as defined in section 7AC(1) of the Act.”.

Amendment of the Electricity Trading (Development of Technical Procedures) (Day-Ahead Market Timeframe) Regulations 2021

36. In regulation 1(3) of the Electricity Trading (Development of Technical Procedures) (Day-Ahead Market Timeframe) Regulations 2021 (interpretation)(e), in the definition of “GB transmission system operator”, for paragraph (b) substitute—

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- (a) S.I. 2017/353 to which there are amendments not relevant to these Regulations.
 - (b) S.I. 2018/506.
 - (c) S.I. 2019/1023, to which there are amendments not relevant to these Regulations.
 - (d) S.I. 2019/1024.
 - (e) S.I. 2021/651.

“(b) a person who holds an electricity system operator licence under section 6(1)(da) of the Electricity Act 1989,”.

Amendment of the Energy Bills Discount Scheme (Non-Standard Cases) Regulations 2023

37. In regulation 2 of the Energy Bills Discount Scheme (Non-Standard Cases) Regulations 2023 (interpretation)(a), in the definition of “Trading Party”—

- (a) after “Great Britain”, insert “, as it is amended from time to time,”;
- (b) for “section 6(1)(b)” to the end substitute “section 6(1)(da) of the Electricity Act 1989”.

Amendment of the Nuclear Regulated Asset Base Model (Revenue Collection) Regulations 2023

38. In regulation 2(1) of the Nuclear Regulated Asset Base Model (Revenue Collection) Regulations 2023 (interpretation)(b), in the definition of “the Balancing and Settlement Code” for “transmission licences granted under section 6(1)(b)” substitute “an electricity system operator licence granted under section 6(1)(da)”.

PART 5

Amendment of Assimilated Law

Amendment of Regulation (EC) 715/2009

39. In Article 16(5) of Regulation (EC) 715/2009 of the European Parliament and of the Council of 13 July 2009 on the conditions for access to the natural gas transmission networks (principles of capacity-allocation mechanisms and congestion-management procedures concerning transmission system operators)(c), at the end insert—

“When assessing market demand, transmission system operators shall consult the holder of a licence under section 7AA of the Gas Act 1986.”.

Amendment of Commission Regulation (EU) 2016/631

40. In Article 2 of Commission Regulation (EU) 2016/631 of 14 April 2016 establishing a network code on requirements for grid connection of generators (definitions)(d), in the first unnumbered paragraph, omit “(other than the definition of ‘transmission system operator’ or ‘TSO’)”.

Amendment of Commission Regulation (EU) 2016/1388

41. In Article 2 of Commission Regulation (EU) 2016/1388 of 17 August 2016 establishing a Network Code on Demand Connection (definitions)(e), in the first unnumbered paragraph, omit “(other than the definition of ‘transmission system operator’ or ‘TSO’)”.

Amendment of Commission Regulation (EU) 2016/1447

42. In Article 2 of Commission Regulation (EU) 2016/1447 of 26 August 2016 establishing a network code on requirements for grid connection of high voltage direct current systems and

(a) S.I. 2023/464.

(b) S.I. 2023/254.

(c) EUR 2009/715.

(d) EUR 2016/631. Article 2 was amended by S.I. 2020/1006.

(e) EUR 2016/1388. Article 2 was amended by S.I. 2020/1006.

direct current-connected power modules (definitions)(a), in the first unnumbered paragraph, omit “(other than the definition of ‘transmission system operator’ or ‘TSO’)”.

Amendment of Commission Regulation (EU) 2017/459

43. In Article 6 of Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems (capacity calculation maximisation)(b)—

- (a) in paragraph 1(a)(6), after “network users” insert “or the holder of a licence under section 7AA of the Gas Act 1986”;
- (b) in paragraph 1(b)(2), after “relevant demand and supply scenarios” insert “having regard to any information provided by the holder of a licence under section 7AA of the Gas Act 1986”.

Amendment of Commission Regulation (EU) 2017/1485

44. In Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing guidance on electricity transmission system operation(c)—

- (a) in Article 3 (definitions)—
 - (i) in paragraph 1, for “paragraphs 1A and 1B” substitute “paragraph 1A”;
 - (ii) omit paragraph 1B;
 - (iii) in paragraph 2, omit point (168) (definition of national electricity transmission system operator);
- (b) in Articles 10, 15, 16, 40, 55 and 65 for “national electricity transmission system operator”, in each place it occurs, substitute “transmission system operator”.

Amendment of Regulation (EU) 2017/1938

45. In Regulation (EU) 2017/1938 of the European Parliament and of the Council of 25 October 2017 concerning measures to safeguard the security of gas supply(d)—

- (a) in Article 7 (risk assessment), in paragraph 6, after “Natural gas undertakings” insert “, the holder of a licence under section 7AA of the Gas Act 1986,”;
- (b) in Article 8 (establishment of preventive action plans and emergency plans), in paragraph 2, after “natural gas undertakings,” insert “the holder of a licence under section 7AA of the Gas Act 1986,”.

Amendment of Commission Regulation (EU) 2017/2195

46. In Article 9 of Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (stakeholder involvement)(e) omit “national electricity”.

Amendment of Commission Regulation (EU) 2017/2196

47. In Article 53 of Commission Regulation (EU) 2017/2196 of 24 November 2017 establishing a network code on electricity emergency and restoration (stakeholder involvement)(f), omit “national electricity”.

(a) EUR 2016/1447. Article 2 was amended by S.I. 2020/1006.

(b) EUR 2017/459.

(c) EUR 2017/1485. Article 3 was amended by S.I. 2019/533.

(d) EUR 2017/1938. Article 7(6) was amended by S.I. 2019/531.

(e) EUR 2017/2195. Article 9 was amended by S.I. 2019/532.

(f) EUR 2017/2196. Article 53 was amended by S.I. 2019/533.

Amendment of Regulation (EU) 2019/943

48. In Article 2 of Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) (definitions)(a), for the definition of “transmission system operator” or “TSO” substitute—

““transmission system operator” or “TSO” means—

- (a) in relation to the functions set out in section 161(2) of the Energy Act 2023, so far as they relate to electricity, the holder of a licence under section 6(1)(da) of the Electricity Act 1989;
- (b) in relation to the making available for use of all or any part of a transmission system (within the meaning of section 4 of the Electricity Act 1989), a person who is designated as an electricity transmission system operator under section 10H of the Electricity Act 1989 by virtue of being either the holder of a licence granted under section 6(1)(b) of that Act or such a licence holder’s nominated independent system operator;
- (c) in relation to participating in the operation of an electricity interconnector (within the meaning of section 4 of the Electricity Act 1989), a person who is designated as an electricity transmission system operator under section 10H of the Electricity Act 1989, by virtue of being either the holder of a licence under section 6(1)(e) of that Act or such a licence holder’s nominated independent system operator;”.

Name

Title

Department for Energy Security and Net Zero

(a) EUR 2019/943.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to primary, secondary and assimilated legislation in consequence of, or in connection with, the coming into force of certain provisions of the Energy Act 2023 (c.52) (“the Act”).

Part 5 of the Act makes provision for the designation and functioning of a new body: the Independent System Operator and Planner (ISOP) which will take over the role of the current electricity system operator and take on the role of a gas system planner.

Part 6 of the Act introduces a new governance framework for gas and electricity codes, including the role of the Code Manager. Under that new framework, code administrators and industry panels will be replaced by code managers who will be selected and licensed by the Gas and Electricity Markets Authority (GEMA).

The functions of bodies currently dealing with matters being taken over by the ISOP and by new code managers are set out across the statute book as it relates to energy and more widely. In particular the licensing provisions of the Electricity Act 1989 (c. 29) (“the 1989 Act”) and the Gas Act 1986 (c. 44) (“the 1986 Act”) have been amended to create new categories of licence which need to be reflected in a number of related pieces of legislation.

In addition, section 203 of and Schedule 15 to the Act make a number of amendments to the 1989 Act to add provisions concerning the competitive tendering for electricity projects, and a number of amendments are made to secondary legislation as a result of the coming into force of those new provisions.

Part 8 of the Act also makes provision for the regulation of heat networks and the creation of heat network zones and some amendments are made as a result of regulations being made under that Part.

Regulations 2 and 3 make amendments to the 1986 Act and the 1989 Act principally to reflect the creation of new licensable activities to be carried out by the ISOP, in its role as electricity system operator and gas system planner, or the Code Managers.

Regulation 4 makes a minor amendment to the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 N.I. 2) for the purposes of adding a reference to the modification power in section 89 of the Act to Article 11 of that Order.

Regulations 5 to 9 make similar consequential amendments to a number of other pieces of primary energy legislation in particular the Utilities Act 2000 (c.27) and the Energy Acts 2004 (c. 20), 2008 (c. 32), 2010 (c. 27) and 2013 (c. 32). Amendments are also made to the Utilities Act 2000 as a consequence of Chapter 1 of Part 8 of the Act (regulation of heat networks).

Regulations 10 to 22 make consequential amendments to a number of other pieces of primary legislation to insert references to the ISOP or Code Manager functions or licences.

Regulations 23 to 38 make amendments to a number of pieces of domestic secondary legislation primarily to add in references to the electricity system operator licence or the gas system planner licence or to replace references to existing licences where that is appropriate.

Regulations 39 to 48 make amendments to assimilated law which relates to the electricity transmission system and to gas networks again primarily to add in references to the electricity system operator and (where relevant) gas system planner licences.

An impact assessment was prepared for the Energy Bill 2023 in relation to all the matters to which the consequential amendments in this instrument relate and copies can be obtained from the UK Parliament website at <https://bills.parliament.uk/bills/3311/publications> or from the Department for Energy Security and Net Zero at 3-8 Whitehall Place, London SW1A 2EG.