

Code Administrator Consultation

GC0121: Grid Code changes in the event the UK leaves the EU without an agreement

Overview: The proposed modification aims to ensure that retained EU law will function effectively in the context of the Grid Code. In the event the United Kingdom leaves the European Union without an agreement ('no-deal'), it will ensure that the Grid Code takes into account the provisions in the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 as well as relevant consequential licence modifications.

Modification process & timetable



Have 5 minutes? Read our [Executive summary](#)

Have 20 minutes? Read the full [Code Administrator Consultation](#)

Have 30 minutes? Read the full Code Administrator Consultation and annexes

Status summary: This Proposal was first presented to Panel on 28 February 2019. A Code Administrator Consultation has already been held from 4 March 2019 to 18 March 2019 but as the Proposal has been updated to reflect current circumstances, this second Code Administrator Consultation is being held.

This modification is expected to have a: **Low impact** on all Grid Code parties.

Modification drivers: GB Compliance and EU Compliance

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| Governance route | This modification will proceed straight to Code Administrator Consultation and the Panel will make the decision on whether it should be implemented. | |
| Who can I talk to about the change? | <p>Proposer: Phil Smith philip.smith4@nationalgrideso.com Phone: 07779 560 468</p> | <p>Code Administrator Chair: Nisar Ahmed Nisar.ahmed@nationalgrideso.com Phone: 0777 304 3068</p> |
| How do I respond? | Send your response proforma to grid.code@nationalgrideso.com by 5pm on 4 December 2020 | |

Executive Summary

This proposal seeks to ensure that retained EU law will function effectively in the context of the Grid Code. This Proposal was first presented to Panel on 28 February 2019. A Code Administrator Consultation has already been held from 4 March 2019 to 18 March 2019 (where no consultation responses were received). As the Proposal has been updated to reflect current circumstances, this second Code Administrator Consultation is being held.

What is the issue?

In the event the UK leaves the EU without an agreement, the Grid Code needs to be amended to ensure the provisions in the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020) as well as relevant consequential licence modifications will function effectively in the context of the Grid Code.

What is the solution and when will it come into effect?

Proposers solution:

It is proposed to modify existing references to EU Regulations to ensure that the Grid Code takes into account the provisions in the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020) as well as relevant consequential licence modifications.

Implementation date:

No implementation timescales are set out or proposed, although implementation of this modification would be sought as soon as practicable following the UK's exit from the EU, in the event the UK leaves the EU without an agreement. However, implementation is specifically dependent upon the implementation of the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020), as well as relevant consequential licence modifications and so implementation of this proposal should align with the Statutory Instruments and licence modifications.

What is the impact if this change is made?

This modification will have a minimal impact on all Grid Code parties.

Interactions

It is understood that other GB frameworks will require revision in the event the UK leaves the EU without an agreement. Modifications have been raised at the CUSC and STC panels at the same time as this modification. However, this modification is not interactive with any proposal for changes to other GB frameworks.

Contents

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What is the issue?

Why Change?

In the event that the UK leaves the EU without an agreement, the Grid Code needs to be amended to ensure the provision in the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 as well as relevant consequential licence modifications will function effectively in the context of the Grid Code.

Detail

The Grid Code contains a small number of references to EU Regulations and EU entities. These were introduced as a consequence of the integration of the UK into the EU Internal Energy Market (IEM) and more specifically in order to comply with a number of EU Regulations which were directly applicable in UK Law.

Following the outcome of a referendum on UK membership of the EU on 23 June 2016, the UK government notified its intention to leave the EU in March 2017 (as permitted by Article 50 of the Treaty on European Union).

This modification was originally raised on 20 February 2019, at which point the UK was expected to leave the EU on 29 March 2019. However, this modification was then put on hold as the UK's departure was delayed, and the UK subsequently agreed a number of extensions with the EU.

The UK's departure became effective on 31 January 2020, at which point the UK entered a transition period which will end on IP (Implementation Period) completion day, which is currently expected to be 31 December 2020. During the transition period the UK must comply with all EU rules and laws. From IP Completion Day, EU Regulations will no longer be directly applicable in the UK and EU entities will no longer have a part to play in the creation of UK policy and legislation. We have therefore updated the proposal and legal text to reflect the current position.

The approach specified in the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020) is to incorporate EU law into UK law (where possible). The UK Government has published statutory instruments with the aim of correcting, removing and/or amending provisions of EU Regulations as appropriate, relevant to the electricity industry, such that they reflect the UK no longer being an EU Member State. The Authority consulted on licence modifications in January 2019 and in the event that the UK will leave the EU without a deal, will publish their decision letter to make the licence modifications 'as soon as is practicable'.

Therefore, in the event that the UK leaves the EU without an agreement, the Grid Code needs to be amended to ensure the provision in the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020), as well as relevant consequential licence modifications, will function effectively in the context of the Grid Code.

Should a Withdrawal Agreement between the UK and the EU be concluded and take effect from IP Completion Day, this modification in this form and timescale will no longer be required.

What is the solution?

Proposer's solution:

It is proposed to modify existing references to EU Regulations to ensure that the Grid Code takes into account the provisions in the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020) as well as relevant consequential licence modifications.

Please note the following points of guidance regarding the legal text changes. This is not an exhaustive list of the changes so please review the legal text for full details. Note that the objective of this modification is to implement minimum changes to ensure continued operability of the Grid Code arrangements.

- References to individual **Retained EU Laws** have been retained, rather than referring to the generic term '**Retained EU Law**', as keeping in the specific references is more useful for users of the Grid Code.
- All '**European Regulation**' defined terms referring to specific Commission Regulations have been removed from the **Glossary & Definitions**. Each specific **Retained EU Law** is now referenced in the relevant section of the Grid Code in the format: "**Retained EU Law** (Commission Regulation (EU) YYYY/####)." Note that **Retained EU Laws** will become national law on IP completion day, but the names of the national laws will often still include 'EU'.
- A sentence is added to GD.2.1 (xiv) to explained how references to Commission Regulations are to be used within Grid Code.
- The following is added as a defined term: "**Legally Binding Decisions of the European Commission and/or the Agency**", aligned with the modification proposed in the statutory consultation of the licence. In the event the UK leaves the EU without an agreement, future decisions of the Commission and the Agency will no longer have any legal effect in the UK. However, decisions made prior to IP completion day are to continue to have effect. Definitions are also added for **Retained EU Law** and **IP Completion Day**
- A definition for **Electricity Balancing Regulation** is added, and the term replaces 'EBGL' in ANNEX GR.B Regulated Sections.
- A definition of "**Data Publisher**" is also added, in accordance with the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement) Act 2020.
- The definition of **TERRE** has been amended to remove references to European Regulation (EU) 2017/2195 (EBGL) and European Regulation (EU) 2017/1485 as, although these regulations are to be Retained EU Law, the references to TERRE are no longer included within those regulations.
- In section Planning Code (PC), the reference to ENTSO-E Central Information Transparency Platform is removed, in accordance with the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement) Act 2020.
- In section Operating Code (OC), it is proposed to update the data publication requirement according to the new requirement in the relevant Statutory

Instruments that have been prepared under the European Union (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement) Act 2020.

- In SCHEDULE 6 Users Outage Information, references to Energy Identification Code will be removed as data will no longer be exchanged with the Central European Transparency Platform
- In Balancing Code (BC), reference to European Regulation EU 2016/1485 in relation to minimum timescales for prequalification is removed as the Grid Code itself contains the minimum timescales.

Legal text

Proposed legal text for this change can be found in Annex 3.

What is the impact of this change?

| Proposer's Assessment against Grid Code Objectives | |
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| Relevant Objective | Identified impact |
| (a) To permit the development, maintenance and operation of an efficient, coordinated and economical system for the transmission of electricity | None |
| (b) Facilitating effective competition in the generation and supply of electricity (and without limiting the foregoing, to facilitate the national electricity transmission system being made available to persons authorised to supply or generate electricity on terms which neither prevent nor restrict competition in the supply or generation of electricity); | None |
| (c) Subject to sub-paragraphs (a) and (b), to promote the security and efficiency of the electricity generation, transmission and distribution systems in the national electricity transmission system operator area taken as a whole; | None |
| (d) To efficiently discharge the obligations imposed upon the licensee by this license and to comply with the Electricity Regulation and any relevant legally binding decisions of the European Commission and/or the Agency; and | Positive Ensures that the Grid Code is aligned with retained EU law and licence obligations in the event of 'no deal' and from IP completion day. |
| (e) To promote efficiency in the implementation and administration of the Grid Code arrangements | Positive Ensures that the Grid Code is up-to-date regarding the arrangements for the |

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| | UK's departure from the EU. |
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First Code Administrator Consultation Summary

The first Code Administrator Consultation was issued on 4 March 2019 and closed on 18 March 2019. No responses were received to this consultation.

When will this change take place?

Implementation date:

No implementation timescales are set out or proposed, although implementation of this modification would be sought as soon as practicable following the UK's exit from the EU, in the event the UK leaves the EU without an agreement. However, implementation is specifically dependent upon the implementation of the relevant Statutory Instruments that have been prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020), as well as relevant consequential licence modifications and so implementation of this proposal should align with the Statutory Instruments and licence modifications.

Date decision required by:

A decision will be required as soon as possible as described above.

Implementation approach:

No systems or processes will be required to change as a result of this modification.

How to respond

Code Administrator Consultation questions:

- Do you believe that the GC0121 proposal better facilitates the Applicable Objectives?
- Do you support the implementation approach?
- Do you have any further comments?

Views are invited on the proposals outlined in this consultation, which should be received by 5pm on **4 December 2020**. Please send your response to grid.code@nationalgrideso.com using the response pro-forma which can be found on the [modification page](#).

If you wish to submit a confidential response, please note that information provided in response to this consultation will be published on National Grid ESO's website unless the response is clearly marked "Private & Confidential", we will contact you to establish the extent of the confidentiality. A response marked "Private & Confidential" will be disclosed to the Authority in full but, unless agreed otherwise, will not be shared with the CUSC Modifications Panel or the industry and may therefore not influence the debate to the same extent as a non-confidential response. Please note an automatic confidentiality disclaimer generated by your IT System will not in itself, mean that your response is treated as if it had been marked "Private and Confidential".

Acronyms, key terms and reference material

| Acronym / key term | Meaning |
|--------------------|---|
| Baseline | The code/standard as it is currently |
| IP completion day | Implementation Period completion day, which is currently expected to be 31 December 2020. |

Reference material:

1. [European Union \(Withdrawal\) Act 2018](#)
2. [Statutory Consultation on licence modification in the event the UK leaves the EU without a deal](#)
3. [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020](#)
4. [The Electricity Network Codes and Guidelines \(Markets and Trading\) \(Amendment\) \(EU Exit\) Regulations 2019](#)
5. [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020](#)
6. [The Electricity Network Codes and Guidelines \(System Operation and Connection\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#)
7. [The Electricity and Gas \(Market Integrity and Transparency\) \(Amendment\) \(EU Exit\) Regulations 2019](#)

Annexes

| Annex | Information |
|---------|---------------------------|
| Annex 1 | GC0121 Proposal Form |
| Annex 2 | Self-Governance Statement |
| Annex 3 | Legal Text |