

Draft Final Self-Governance Modification Report

GC0149: Grid Code changes to reflect the terms of the UK's departure from the EU

Overview: The proposal aims to ensure that retained EU law functions effectively in the context of the Grid Code following the UK-EU Trade and Cooperation Agreement and the end of the transition period. It will ensure that the Grid Code takes into account the provisions in the relevant Statutory Instruments prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020).

Modification process & timetable



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

Have 20 minutes? Read the full [Final Self-Governance Modification Report](#)

Have 30 minutes? Read the full Final Self-Governance Modification Report and Annexes.

Status summary: This Report has been submitted to the Grid Code Panel for them to carry out their determination vote on whether this change should happen.

Panel recommendation: The Panel has determined unanimously/by majority that the Proposer's solution is implemented. (TBC post Panel)

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

Modification drivers: GB Compliance and EU Compliance

Governance route This modification has followed the Self-Governance route and proceeded straight to Code Administrator Consultation. The Panel will make the decision on whether it should be implemented.

Who can I talk to about the change?

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Appeals window

If you want to appeal this decision, please send your [appeals form](#) and relevant documentary evidence to industrycodes@ofgem.gov.uk by 5pm on 27 July 2021 and ensure you copy in grid.code@nationalgrideso.com

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Executive summary

This modification is seeking to ensure that retained EU law functions effectively in the context of the Grid Code following the UK-EU Trade and Cooperation Agreement and the end of the transition period. It will ensure that the Grid Code takes into account the provisions in the relevant Statutory Instruments prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020).

What is the issue?

On 24 December 2020 the UK reached an agreement with the EU on the terms of the UK's departure from the EU, the UK-EU Trade and Cooperation Agreement (TCA). This was ratified by the UK Parliament on 30 December 2020. At 11pm on 31 December 2020, the Brexit transition period ended. The UK left the EU single market and customs union and EU law ceased to apply to the UK.

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

Proposer's solution: In the Proposer's view the Grid Code will need to be amended to modify existing references to EU Regulations to ensure that the Grid Code considers the provisions in the relevant Statutory Instruments prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020).

Implementation date: As soon as reasonably practicable, and in alignment with the equivalent CUSC and STC modifications.

Panel determination: The Panel has determined unanimously/by majority that the Proposer's solution is implemented. (TBC post Panel)

What is the impact if this change is made?

In the Proposer's view this proposal is expected to have a low impact on all Grid Code parties. The Grid Code needs to be amended and the change will ensure the provisions in the relevant Statutory Instruments prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020) will function effectively in the context of the Grid Code following the end of the transition period.

Interactions

It is understood that other GB frameworks require revision as a result of the UK leaving the EU with an agreement. Modifications have been raised at the STC and CUSC panels at the same time as this modification. However, this modification is not interactive with any proposal for changes to other GB frameworks.

What is the issue?

On 24 December 2020 the UK reached an agreement with the EU on the terms of the UK's departure from the EU, the UK-EU Trade and Cooperation Agreement (TCA). This was ratified by the UK Parliament on 30 December 2020. At 11pm on 31 December 2020, the Brexit transition period ended. The UK left the EU single market and customs union and EU law ceased to apply to the UK.

Why change?

In the Proposer's view the Grid Code would need to be amended to ensure the provisions in the relevant Statutory Instruments prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020) will function effectively in the context of the Grid Code following the end of the transition period.

Background

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).

The UK's departure became effective on 31 January 2020, at which point the UK entered a transition period which was in effect until IP (Implementation Period) completion day, 31 December 2020. During the transition period the UK had to comply with all EU rules and laws.

Following the ratification of the TCA and the end of the transition period, EU law that has not been retained ceased to apply to the UK. The agreement does not outline in detail the relevant arrangements that will apply regarding the Grid Code. However, in the absence of further information the ESO propose updating the Grid Code to correct content that became out of date at 11pm on 31 December 2020. If further modifications are required in the future to outline additional post-Brexit arrangements, the ESO will raise them at the appropriate time.

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 that the UK no longer being an EU Member State.

Additional background to this modification: In February 2019, the ESO raised GC0121 ('Grid Code changes in the event the UK leaves the EU without an agreement') in anticipation of the possibility of the UK leaving the EU without a deal. Following the

announcement of the TCA, this modification was withdrawn by the ESO in January 2021 as it dealt specifically with arrangements in a 'no deal' scenario. However, the legal text for this new modification is the same as that proposed in GC0121, as the contents of the TCA require no further changes to be made to the Grid Code arrangements from January 2021.

What is the solution?

Proposer's solution

In the Proposer's view it is proposed to amend existing references to EU Regulations to ensure that the Grid Code considers the provisions in the relevant Statutory Instruments prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020).

The Proposer has provided the following points of guidance regarding the legal text changes. In the Proposer's view this is not an exhaustive list and the Proposer has recommended review of the legal text for full details. 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** became national law on IP completion day, but the names of the national laws often still include 'EU'.
- A sentence is added to GD.2.1 (xiv) to explain 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 of the licence conditions of the electricity transmission licence as outline in the [Authority decision letter](#) of 11 February 2021. While future decisions of the Commission and the Agency will no longer have any legal effect in the UK, 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 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 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 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 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

Legal text

The 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	
Relevant Objective	Identified impact
(a) To permit the development, maintenance and operation of an efficient, coordinated and economical system for the transmission of electricity	Neutral
(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);	Neutral
(c) Subject to sub-paragraphs (i) and (ii), 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;	Neutral
(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 up-to-date regarding the arrangements for the UK's departure from the EU.
(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 UK's departure from the EU.
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Code Administrator Consultation Summary

The Code Administrator Consultation was issued on the 14 May 2021 closed on 14 June 2021 and received two responses. A summary of the responses can be found in the table below, and the full responses can be found in Annex 4.

Code Administrator Consultation summary

Question	
Do you believe that the GC0149 better facilitates the Grid Code Objectives?	<p>Both respondents believe that the Original Proposal better facilitates the Grid Code Objectives.</p> <p>They both believe that the proposal clarifies the application of the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020) to the Grid Code.</p> <p>It ensures that the Grid Code is aligned with retained EU law and licence obligations following the ratification of the TCA and the end of the transition period.</p> <p>It will ensure that the Grid Code is up-to-date regarding the arrangements for the UK's departure from the EU</p>
Do you support the proposed implementation approach?	Both respondents support the proposed implementation approach and believe that given the Brexit transition period ended on 31 December 2020, implementation should be sought as soon as practicable.
Do you have any other comments?	It is likely that additional code changes will be necessary at some point in the future as the detailed requirements of the TCA are further developed.
Legal text issues raised in the consultation	
Legal text changes have been suggested by Northern Powergrid (NPg). These can be found in Annex 5	
EBGL issues raised in the consultation	
None	

Panel determination vote

The Panel met on the 24 June 2021 to carry out their determination vote.

They assessed whether a change should be made to the Grid Code by assessing the proposed change and any alternatives against the Applicable Objectives.

Panel comments on Legal text

Ahead of the vote taking place, the Panel considered the legal text amendments proposed as part of the Code Administrator Consultation and agreed that they were typographical. The changes made can be found in Annex 5.

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Alan Creighton, Network Operator Representative**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original						
Voting Statement						

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Alastair Frew, Generator**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original						
Voting Statement						

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Christopher Smith, Offshore Transmission Licensee**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original						
Voting Statement						

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Guy Nicholson, Generator**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Neutral	Yes	Neutral	Yes	Yes	Neutral

Voting Statement

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **John Harrower, Generator**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original						
Voting Statement						

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Rob Wilson, National Grid ESO**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original						
Voting Statement						

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Robert Longden, Supplier**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original						
Voting Statement						

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Roddy Wilson, Onshore Transmission Licensee**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original						
Voting Statement						

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Sigrid Bolik, Generator**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)

Original						
Voting Statement						

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Graeme Vincent (Alternate for Steve Cox), Network Operator Representative**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original						
Voting Statement						

Vote 2 – Which option is the best?

Panel Member	BEST Option?
Alan Creighton	
Alastair Frew	
Christopher Smith	
Guy Nicholson	
John Harrower	
Rob Wilson	
Robert Longden	
Roddy Wilson	
Sigrid Bolik	
Graeme Vincent (Alternate for Steve Cox)	

Panel conclusion

The Panel, unanimously/ by majority determined that the Proposer's solution/ should be implemented. (TBC post Panel)

When will this change take place?

Implementation date

As soon as reasonably practicable, and in alignment with the equivalent CUSC and STC modifications.

Date decision required by

As soon as reasonably practicable, and in alignment with the equivalent CUSC and STC modifications.

Implementation approach

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

Interactions

<input checked="" type="checkbox"/> CUSC	<input type="checkbox"/> BSC	<input checked="" type="checkbox"/> STC	<input type="checkbox"/> SQSS
<input type="checkbox"/> European Network Codes	<input type="checkbox"/> EBGL Article 18 T&Cs ¹	<input type="checkbox"/> Other modifications	<input type="checkbox"/> Other

Other GB frameworks require revision as a result of the UK leaving the EU with an agreement. Modifications have been raised at the STC and CUSC panels at the same time as this modification. However, this modification is not interactive with any proposal for changes to other GB frameworks.

Acronyms, key terms and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
CUSC	Connection and Use of System Code
EBGL	Electricity Balancing Guideline
GC	Grid Code
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions
IP completion day	Implementation Period completion day (31 December 2020).
TCA	UK-EU Trade and Cooperation Agreement
BSC	Balancing and Settlement Code

Reference material

- [European Union \(Withdrawal\) Act 2018](#)
- [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020](#)
- [The Electricity Network Codes and Guidelines \(Markets and Trading\) \(Amendment\) \(EU Exit\) Regulations 2019](#)
- [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020](#)
- [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](#)
- [UK-EU Trade and Cooperation Agreement](#)

¹ If the modification has an impact on Article 18 T&Cs, it will need to follow the process set out in Article 18 of the European Electricity Balancing Guideline (EBGL – EU Regulation 2017/2195) – the main aspect of this is that the modification will need to be consulted on for 1 month in the Code Administrator Consultation phase. N.B. This will also satisfy the requirements of the NCER process.

8. [Decision on consequential licence modifications due to the end of the transition period](#)

Annexes

Annex	Information
Annex 1	Proposal form
Annex 2	Self-Governance Statement
Annex 3	Legal Text
Annex 4	Code Administrator Responses
Annex X	

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