

Grid Code Modification Proposal Form

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



Status summary: The Proposer has raised a modification and is seeking a decision from the Panel on the governance route to be taken.

This modification is expected to have a: Low impact on all grid code parties.

Modification drivers: GB Compliance and EU Compliance

Proposer's recommendation of governance route	Self-Governance modification to proceed to Code Administrator Consultation	
Who can I talk to about the change?	Proposer: Phil Smith Philip.Smith4@nationalgrideso.com 07779 560 468	Code Administrator Contact: Nisar Ahmed Nisar.Ahmed@nationalgrideso.com 07773 043 068

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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?

Therefore, the Grid Code needs 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 proposer's solution?

It is proposed 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).

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** 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 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 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 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.

Draft legal text

The legal text is attached as a separate document.

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.

Proposer's assessment of the impact of the modification on the stakeholder / consumer benefit categories	
Stakeholder / consumer benefit categories	Identified impact

Improved safety and reliability of the system	Neutral
Lower bills than would otherwise be the case	Neutral
Benefits for society as a whole	Neutral
Reduced environmental damage	Neutral
Improved quality of service	Neutral

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.

Proposer's justification for governance route

Governance route: Self-Governance modification to proceed to Code Administrator Consultation

GC0121 was approved as Self-Governance, and 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.

This modification meets the Self-Governance criteria because it is unlikely to discriminate between different Grid Code Parties and is unlikely to have a material effect on:

- Existing or future electricity customers
- Competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution or supply of electricity
- The operation of the National Electricity Transmission System
- Matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies
- The Grid Code Panel's governance procedures or the Grid Code Panel's modification procedures

Interactions

- | | | | |
|--|---|---|--------------------------------|
| <input type="checkbox"/> CUSC | <input type="checkbox"/> BSC | <input 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 |

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.

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

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

¹ If your modification amends any of the clauses mapped out in Annex GR.B of the Governance Rules section of the Grid Code, it will change the Terms & Conditions relating to Balancing Service Providers. The modification will need to follow the process set out in Article 18 of the European Electricity Balancing Guideline (EBGL – EU Regulation 2017/2195). All Grid Code modifications must be consulted on for 1 month in the Code Administrator Consultation phase, unless they are Urgent modifications which have no impact on EBGL Article 18 T&Cs. N.B. This will also satisfy the requirements of the NCER process.