

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT ELECTRICITY (RISK-PREPAREDNESS)
(AMENDMENT ETC.) (EU EXIT)
REGULATIONS 2020

Wednesday 7 October 2020

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Sunday 11 October 2020

© Parliamentary Copyright House of Commons 2020

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chair: †JULIE ELLIOTT

- | | |
|---|---|
| † Anderson, Lee (<i>Ashfield</i>) (Con) | † Longhi, Marco (<i>Dudley North</i>) (Con) |
| † Bacon, Gareth (<i>Orpington</i>) (Con) | † Russell, Dean (<i>Watford</i>) (Con) |
| † Barker, Paula (<i>Liverpool, Wavertree</i>) (Lab) | Slaughter, Andy (<i>Hammersmith</i>) (Lab) |
| † Baynes, Simon (<i>Clwyd South</i>) (Con) | Smith, Nick (<i>Blaenau Gwent</i>) (Lab) |
| † Clarke, Theo (<i>Stafford</i>) (Con) | † Tarry, Sam (<i>Ilford South</i>) (Lab) |
| † Fletcher, Mark (<i>Bolsover</i>) (Con) | Thompson, Owen (<i>Midlothian</i>) (SNP) |
| † Furniss, Gill (<i>Sheffield, Brightside and Hillsborough</i>) (Lab) | † Tomlinson, Michael (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Goodwill, Mr Robert (<i>Scarborough and Whitby</i>) (Con) | † Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab) |
| † Kwarteng, Kwasi (<i>Minister for Business, Energy and Clean Growth</i>) | Sarah Ioannou, Anwen Rees, <i>Committee Clerks</i> |
| | † attended the Committee |

Fifth Delegated Legislation Committee

Wednesday 7 October 2020

[JULIE ELLIOTT *in the Chair*]

Draft Electricity (Risk-Preparedness) (Amendment etc.) (EU Exit) Regulations 2020

2.30 pm

The Minister for Business, Energy and Clean Growth (Kwasi Kwarteng): I beg to move,

That the Committee has considered the draft Electricity (Risk-Preparedness) (Amendment etc.) (EU Exit) Regulations 2020.

It is always a pleasure to see you in the Chair, Ms Elliott.

The regulations were laid before the House on 17 September. As members of the Committee will know, the transition period ends on 31 December 2020. At that point, direct EU legislation that forms part of the legal framework governing our energy markets will be incorporated into domestic law by the European Union (Withdrawal) Act 2018. This statutory instrument forms part of my Department's work to ensure that the United Kingdom's energy legislation continues to function smoothly after the end of the transition period.

This particular statutory instrument makes amendments and revocations to regulation EU 2019/941 on risk-preparedness in the electricity sector. It does two things primarily: first, it amends rules to ensure that they operate effectively in domestic law. Secondly, it revokes provisions that will no longer be relevant to us after the conclusion of the transition period. Specifically, it amends provisions relating to the development of electricity crisis scenarios and a risk-preparedness plan to ensure that they operate properly after the transition period. As of 1 January next year, the United Kingdom will make independent decisions on our energy policies. The statutory instrument applies to Great Britain and revokes certain obligations, for example, to submit information on our risk-preparedness to EU bodies and institutions.

In summary, the statutory instrument will ensure the operability and integrity of Great Britain's energy legislation. It will provide certainty for market participants and safeguard the resilience of the electricity system. It will also ensure that the continued functioning of risk-preparedness is maintained, so we will have just as much provision for and foresight of risks as we had before, but we simply will not have to report back to the EU about our plans.

Mr Robert Goodwill (Scarborough and Whitby) (Con): We have an interconnector between the UK and Europe. Will there be an impact on that, given that there will be an EU implication for the sale of electricity in both directions through the interconnector?

Kwasi Kwarteng: We have more than one interconnector connecting us to European countries, and we intend to build many more. This statutory instrument relates to our risk-preparedness. When we were in the EU, we had to report back to it to say how risk-prepared we were

and what risks we were mitigating. We will no longer have to do that, and the statutory instrument is a good transition out of an EU-regulated system into one that we independently manage ourselves. That is broadly what it does.

The regulations are an appropriate use of the powers of the withdrawal Act, and we fully intend and believe that they will support a well-functioning, competitive and resilient energy system for consumers. On that basis, I commend the regulations to the Committee.

2.34 pm

Dr Alan Whitehead (Southampton, Test) (Lab): It is a pleasure to serve under your chairmanship this afternoon, Ms Elliott.

As the Minister set out lucidly and briefly, the SI is essentially about putting in place what will happen on risk-preparedness in a UK rather than an EU context. It does that by keeping in place most of EU regulation 2019/941 as retained law, but making a number of changes to the retained law to place it in a UK context, independent of what occurs in the EU. Of course, that process is essentially non-controversial and has to happen for our exit from the EU next year. Therefore, having these provisions in place in a timely fashion before that exit takes place is a straightforward and necessary process.

I have, however, some concerns about the consequences of that change, and I would like one or two assurances from the Minister about how that process will take place and what he has in mind for making it happen over the period, because the SI does not just make those changes. It commits the UK to publishing, by 5 January 2022, its own risk-preparedness plan. In a sense, that is not an enormous difference from what was the case previously under the EU regulation, inasmuch as the UK was supposed to publish its own plan, but it was then supposed to circulate that plan around EU member states, in both draft and final form, for comments and consideration. That particular process is excised by the SI this afternoon. It excises that process and sets up a UK process, with the addition of one or two differences from the position previously. In particular, it excises provisions in article 8 of the EU regulation, which describes the process of setting up a draft, circulating that and then publishing. We are now in a position, as a result of the SI, in which the UK will produce its own risk-preparedness plan, but is not required to produce in any way a draft for discussion or circulation to anybody—

Kwasi Kwarteng: We have left the EU.

Dr Whitehead: To anybody in the UK. That is the effect of the SI: there is no provision to publish, reveal or circulate any draft plan before publication of the actual plan, or the agreement of the actual plan, in 2022. That seems to me to be a bit of an omission, frankly, concerning our plans, because it is important that these plans are known about and discussed publicly and scrutinised well in advance of their final adoption. Therefore, I hope that the Minister will at least be able to say—even if he is not prepared to row back on any of the excisions that he has made in relation to the process of adopting a plan—that he will ensure that any draft plans are fully public, circulated and discussable before the final plan is produced, which will be by January 2022.

My second concern is that the terms of the SI effectively mean, as the Minister said, that we do not tell the EU anything we are doing as far as risk-preparedness is concerned, which we would be required to do under the previous regulations; we go our own way as it were on risk-preparedness. In reality, most of the risks that may arise in the UK electricity sector are likely to be common within the EU. Indeed, the right hon. Member for Scarborough and Whitby mentioned interconnectors, and they could easily be a substantial common risk for the UK and EU members, at least on a regional basis.

As the Minister will, I am sure, be aware, because he was very much involved in the process, as part of the comprehensive free trade agreement draft in May 2020, we as a country submitted an energy co-operation draft, which among other things suggests that we should continue to sit as an observer on the ENSO-E body, which is the body that oversees risk-preparedness across the EU. It is very likely, I would have thought, that if the EU agrees that energy co-operation draft, and agrees to our observer status on ENSO-E, it would want at least some transparency as to our risk-preparedness plans, and indeed some mechanism whereby those plans can be translated across to our partners and friends in the EU, so that we can proceed as far as possible on assessing risk and dealing with it on a joint basis, which I am sure the Minister would agree is a thoroughly sensible thing to do given the nature of those risks. Is the Minister able to address what observer status on ENSO-E may consist of, and confirm, should that provision go through, that our risk-preparedness plans will be shared in an appropriate and collaborative way, both with other EU member states and with ENSO-E?

I think the Minister will have gathered that the Opposition do not intend to oppose these regulations—

Kwasi Kwarteng: I was not so sure about that.

Dr Whitehead: They are absolutely the right thing to do under the present circumstances, but I am sure that the Minister will also agree that there are issues that arise, and that we need some clarification as to where things will go once these changes have been made.

2.43 pm

Kwasi Kwarteng: The hon. Gentleman raised a number of points and I want to address them briefly. He is quite right that the very fact of leaving the EU means that we do not have to give EU member states sight of our

plans, and we do not need them to, essentially, review our homework on this. That is what the SI does; it means that we do not have to refer back to them, and that is what having an independent energy policy means. So he is right to say that, but there will be scrutiny and debate and, I would expect, wide consultation ahead of the publication of such plans.

Every Energy Minister spends a lot of his or her time engaging with the industry, engaging with resilience issues, engaging with security issues, not only with domestic stakeholders, but with partners in the EU and across the world. It is a very outward-focused, engaged Department, and energy, with all its international implications, is particularly needful of international co-operation and international engagement. I would have no worries on his part about our ability to engage in a very co-operative spirit with allies and partners.

The hon. Gentleman said that the SI is non-controversial, and he is right about that – it is straightforward and necessary. He is also right about that. I disagreed with him when he characterised our position as ‘we go on our own way’. Well, of course, we have that independence, but as I have said, there is constant engagement with our French and German colleagues, and all sorts of countries across the EU. That will continue.

As the hon. Gentleman said, the regulations are straightforward and necessary. They will ensure continuity for our energy system. They will correct deficiencies arising from withdrawal from the EU—we are cleaning up all the redundant references in the legislation to member states and obligations that we owe EU bodies and institutions. They will retain relevant functions with a view to increasing resilience in terms of risk-preparedness, and above all, they will provide certainty for the market and market participants.

I think that the measure is a very simple piece of legislation. It is straightforward and necessary, as the hon. Gentleman suggested, and on that basis, I am very happy to commend the regulations to the Committee.

Dr Whitehead: Will the Minister give way?

Kwasi Kwarteng: I am not going to take any interventions, I am afraid.

Question put and agreed to.

2.46 pm

Committee rose.

