

## P431 'Post Brexit Agreement Updates'

As a result of the UK leaving the European Union (EU), Great Britain (GB) is no longer part of the Internal Energy Market and updates are required to the BSC to ensure that legal text appropriately reflects these changes.



Elexon recommends P431 is progressed directly to the Report Phase with an initial recommendation to approve



Elexon does not consider that P431 impacts the European Electricity Balancing Guideline (EBGL) Article 18 terms and conditions held within the BSC

This Modification is expected to impact:

- No impacts

### Phase

Initial Written Assessment

Definition Procedure

Assessment Procedure

Report Phase

Implementation

## Contents

<b>1</b>	Summary	<b>3</b>
<b>2</b>	Why Change?	<b>5</b>
<b>3</b>	Solution	<b>6</b>
<b>4</b>	Proposed Progression	<b>8</b>
<b>5</b>	Likely Impacts and costs	<b>9</b>
<b>6</b>	Recommendations	<b>12</b>
	Appendix 1: Glossary & References	<b>13</b>



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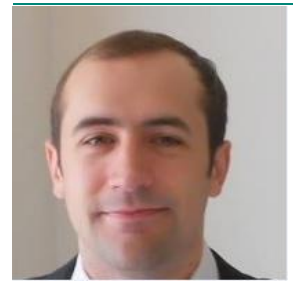
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## About This Document



Not sure where to start? We suggest reading the following sections:

- Have 5 mins? Read section 1
- Have 15 mins? Read sections 1, 4, 5 and 6
- Have 30 mins? Read all sections
- Have longer? Read all sections and the annexes and attachments

This document is an Initial Written Assessment (IWA), which Elexon will present to the Panel on 9 December 2021. The Panel will consider the recommendations and agree how to progress P431.

There are three parts to this document:

- This is the main document. It provides details of the Modification Proposal, an assessment of the potential impacts and a recommendation of how the Modification should progress, including the Workgroup's proposed membership and Terms of Reference.
- Attachment A contains the P431 Draft Legal text.
- Attachment B contains the P431 Proposal Form.

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321/04

P431  
Initial Written Assessment

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2 December 2021

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Version 1.0

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Page 2 of 13

---

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# 1 Summary

## What is the issue?

The United Kingdom (UK) left the European Union (EU) on 31 January 2020, but the vast majority of energy-related issues remained unaffected until the end of the Implementation Period on 31 December 2020. As a result of leaving the EU, Great Britain (GB) is no longer part of the Internal Energy Market and updates are required to the BSC to ensure it appropriately reflects these changes.

P431 will not directly impact BSC Parties as these updates are only required to reflect changes that have already taken effect by the UK leaving the EU. None of the changes P431 proposes have an impact on the operation of the BSC – they are, essentially, administrative changes only. Due to the very minor impacts associated with this change, and the prioritisation of other Modifications in the change pipeline, this Modification has been raised at this stage rather than immediately after the UK withdrawal from the EU.

## What is the proposed solution?

The Solution seeks to update the BSC in light of the UK leaving the Internal Energy Market. The key amendments in this Modification include:

- Updates to the requirements in [Section F 'Modification Procedures'](#) as to the scenarios in which the Authority and National Grid Electricity System Operator (NETSO) can raise Modification Proposals.
- Removal of reference of Council Directive 77/388/EEC and replacement with part 3 of 'The Value Added Tax (Place of Supply of Goods) Order 2004 as amended by The Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019' in Section N 5.4.3.
- Changing the requirements in relation to the NETSO submitting data to the BMRA so that the data submission is required under the Transparency Regulation only. Direct references to ENTSO-E and EBGL Local Data are also removed.
- Removing Section V6.1 which relates to the submission of Transparency Regulation data by the BMRA to ENTSO-E.
- Updates and removals of relevant definitions in [Section X-1 'General Glossary'](#).

## Impacts and costs

This Modification is not expected to impact BSC Parties as these updates are only required to reflect changes that have already taken effect and as such the Modification has minimal impacts. The implementation costs are only the costs associated with developing the BSC drafting sections.

## Implementation

We recommend an Implementation Date of:

- **30 June 2022** as part of the June 2022.

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321/04

P431  
Initial Written Assessment

---

2 December 2021

---

Version 1.0

---

Page 3 of 13

---

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This is the next available Release that this change can practicably be included in.

## **Recommendation**

The Proposer recommends that this Modification should be sent straight to the Report Phase as a Self-Governance Modification. The changes to the BSC are self-evident, fully worked up in Attachment A and are not expected to impact BSC Parties.

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321/04

P431  
Initial Written Assessment

---

2 December 2021

---

Version 1.0

---

Page 4 of 13

---

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## 2 Why Change?

### What is the issue?

The UK left the EU on 31 January 2020, but the vast majority of energy related issues remained unaffected until the end of the transition period at the end of 2020 when the energy related changes as a result of leaving the EU came into force. As a result of the UK leaving the EU, the UK is no longer part of the Internal Energy Market and updates are required to the BSC to ensure that legal text appropriately reflects these changes.

### Background

#### UK exiting the EU

When the UK left the EU on 31 January 2020 the [Withdrawal Act 2018](#) introduced a new legal concept of Retained EU Law. Retained EU Law is essentially a snapshot of EU Law as it applied to the UK as at the end of the Implementation Period (IP) i.e. at 23:00:01 GMT on 31 December 2020. Retained EU Law is regularly referenced in legislation relating to the withdrawal of the UK from the EU and updates are required to the BSC to ensure that historic references relating to EU Directives or Regulations are appropriately updated to reference Retained EU Law which forms part of UK Law.

#### Proposed solution

The Solution seeks to update the BSC in light of the UK leaving the Internal Energy Market. A summary of all of the changes required are given in the table below:

Solution Summary	
Section	Change
F 2.1.1 g), F 2.1.10A	To clarify that the Authority and NETSO (Sections F 2.1.1 g) and F 2.1.10A respectively) cannot raise Modifications to the BSC in relation to legally binding decisions of the European Commission where that decision does not impact Retained EU Law for standard modifications
F8.2	To clarify that the Authority cannot raise Authority Directed Modifications Proposals to the BSC in relation to legally binding decisions of the European Commission where that decision does not impact Retained EU Law
N 5.4.3	Removal of reference of Council Directive 77/388/EEC and replacement with part 3 of 'The Value Added Tax (Place of Supply of Goods) Order 2004 as amended by The Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019'
N 10.1.1	Changing 'European legislation' to 'legislation' in relation to the despatch of Confirmation Notices
Q 6.1B.1	In relation to the NETSO submitting data to the BMRA changing the requirements to that the data submission is that required under the Transparency Regulation and removing direct references to the NETSO, ENTSO-E and EBGL Local Data
Q.1B.2	In relation to Q 6.1B.1 removing the requirements relating to the Guideline on Electricity Balancing and any procedures specified by ENTSO-E.
V 6	Removal of Section 6 which relates to the Submission of Transparency Regulation Data by the BMRA
X-1	Removal of ENTSO-E Definition Amendments to the Electricity Regulation definition Amendments to the Regulation on Wholesale Energy Market Integrity and Transparency or REMIT definition Amendments to the Transparency Regulation Data definition Amendments to the Transparency Regulation definition New Definition of Retained EU Law New Definition of Withdrawal Act

## Benefits

The updates will remove any inaccuracies in the BSC that have arisen since leaving the EU. This will align the BSC with the Retained EU Law, removing any associated ambiguity that currently exists in the BSC.

## Applicable BSC Objectives

There is potential for confusion if the BSC contains defunct references to EU Legislation and bodies. This in turn could lead to reduced efficiency in implementing Balancing and Settlement arrangements. P431 will therefore better facilitate efficiency in the implementation of the BSC under Objective (d).

As this Modification makes updates to the BSC that relate to the Energy Regulation (e.g. references to Retained EU Law) we believe that this Modification better facilitates Applicable BSC Objective (e) 'Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency [for the Co-operation of Energy Regulators'

## Implementation approach

Exelon recommends an Implementation Date for P431 of:

- **30 June 2022** as part of the June 2022 release.

This is the next available Release that this change can practicably be included in



### What are the Applicable BSC Objectives?

(a) The efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence

(b) The efficient, economic and co-ordinated operation of the National Electricity Transmission System

(c) Promoting effective competition in the generation and supply of electricity and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity

(d) Promoting efficiency in the implementation of the balancing and settlement arrangements

(e) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency [for the Co-operation of Energy Regulators]

(f) Implementing and administrating the arrangements for the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation

(g) Compliance with the Transmission Losses Principle

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321/04

P431  
Initial Written Assessment

---

2 December 2021

---

Version 1.0

---

Page 7 of 13

---

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## 4 Proposed Progression

### Proposed Progression

Due to the self-evident and straightforward nature of the proposed changes, and also given that the Modification does not directly impact BSC Parties as these updates are only required to reflect changes that have already taken effect by the UK leaving the EU, we believe that P431 should be sent directly to the Report Phase. Any assessment by a Workgroup during the Assessment Phase would provide no further benefit in this case as the solution is self-evident and fully defined.

### EBGL Impact

There are no EBGL impacts as a result of this Modification. The draft legal text does not make any change to any BSC Sections that constitute EBGL Article 18 Terms and Conditions as detailed in the Annex F-2 of the BSC, nor does it extend them.

### Self-Governance

The Proposer believes that this Modification should be progressed as a Self-Governance Modification as P431 does not materially impact any of the Self-Governance criteria. This Modification does not change any existing obligations on any parties and is required only to clarify existing obligations.

### Next Steps

We recommend that this Modification proceeds directly to the Report Phase for a 20 Working Day consultation from 14 December 2021 to 14 January 2022.

Proposed Progression Timetable for P431	
Event	Date
Present Initial Written Assessment to Panel	9 December 2021
Report Phase Consultation (20 WDs)	14 December 2021 – 14 January 2022
Present Draft Modification Report to Panel	10 February 2022
Self-Governance Objection Window (15WDs)	10 February 2022 – 3 March 2022
Implementation Date	30 June 2022

321/04

P431  
Initial Written Assessment

2 December 2021

Version 1.0

Page 8 of 13

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## 5 Likely Impacts and costs

### Estimated Costs

The costs to implement this Modification will be **low (<£1k)**. These costs are associated with the development of the legal drafting in Sections F, N, Q, V and X-1. No other costs have been identified.

Impact on BSC Parties and Party Agents		
Party/Party Agent	Potential Impact	Potential cost
N/A	No impact identified	None

Impact on the NETSO	
Potential Impact	Potential cost
No impact identified	None

Impact on BSCCo		
Area of Elexon	Potential Impact	Potential cost
N/A	No impact identified	None

Impact on BSC Settlement Risks	
No impact identified	

Impact on BSC Systems and processes	
BSC System/Process	Potential Impact
N/A	No impact identified

Impact on BSC Agent/service provider contractual arrangements	
BSC Agent/service provider contract	Potential Impact
N/A	No impact identified

Impact on Code	
Code Section	Potential Impact
BSC Section F	To be amended as per Attachment A to meet the solution requirements detailed in Section 3.
BSC Section N	
BSC Section Q	
BSC Section V	

321/04

P431  
Initial Written Assessment

2 December 2021

Version 1.0

Page 9 of 13

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Impact on Code	
Code Section	Potential Impact
BSC Section X-1	

Impact on EBGL Article 18 terms and conditions
There are no EBGL impacts as a result of this Modification. The draft legal text does not make any change to any BSC Sections that constitute EBGL Article 18 Terms and Conditions as detailed in the Annex F-2 of the BSC, nor does it extend them.

Impact on Code Subsidiary Documents	
CSD	Potential Impact
N/A	No impacts identified

Impact on other Configurable Items	
Configurable Item	Potential Impact
N/A	No impacts identified

Impact on Core Industry Documents and other documents	
Document	Potential Impact
Ancillary Services Agreements	No impacts identified
Connection and Use of System Code	
Data Transfer Services Agreement	
Distribution Code	
Grid Code	
Retail Energy Code	
Supplemental Agreements	
System Operator-Transmission Owner Code	
Transmission Licence	
Use of Interconnector Agreement	

Impact on a Significant Code Review (SCR) or other significant industry change projects
No impacts identified. We have requested that Ofgem treat this Modification as SCR exempt on [Insert date once request sent]

Impact of the Modification on the environment and consumer benefit areas:	
Consumer benefit area	Identified impact
1) Improved safety and reliability	Neutral
2) Lower bills than would otherwise be the case	Neutral
3) Reduced environmental damage	Neutral
4) Improved quality of service	Neutral
5) Benefits for society as a whole	Neutral

Other Impacts	
Item impacted	Potential Impact
N/A	No other impacts identified



### What are the consumer benefit areas?

- 1)** Will this change mean that the energy system can operate more safely and reliably now and in the future in a way that benefits end consumers?
- 2)** Will this change lower consumers' bills by controlling, reducing, and optimising spend, for example on balancing and operating the system?
- 3)** Will this proposal support:
  - i) new providers and technologies?
  - ii) a move to hydrogen or lower greenhouse gases?
  - iii) the journey toward statutory net-zero targets?
  - iv) decarbonisation?
- 4)** Will this change improve the quality of service for some or all end consumers. Improved service quality ultimately benefits the end consumer due to interactions in the value chains across the industry being more seamless, efficient and effective.
- 5)** Are there any other identified changes to society, such as jobs or the economy.

321/04

P431

Initial Written Assessment

2 December 2021

Version 1.0

Page 11 of 13

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## 6 Recommendations

We invite the Panel to:

- **AGREE** that P431 progresses directly to the Report Phase;
- **AGREE** that P431:
  - **DOES** better facilitate Applicable BSC Objective (d);
  - **DOES** better facilitate Applicable BSC Objective (e);
- **AGREE** that P431 **DOES NOT** impact the EBGL Article 18 terms and conditions held within the BSC;
- **AGREE** an initial recommendation that P431 should be **approved**;
- **AGREE** an initial Implementation Date of:
  - **30 June 2022** as part of the June 2022 release.
- **AGREE** the draft legal text;
- **AGREE** an initial view that P431 should be treated as a Self-Governance Modification; and
- **NOTE** that Elexon will issue the P431 draft Modification Report (including the draft BSC legal text) for a 10 Working Day consultation and will present the results to the Panel at its meeting on 10 February 2022.

# Appendix 1: Glossary & References

## Acronyms

Acronyms used in this document are listed in the table below.

Acronym	
Acronym	Definition
BMRA	Balancing Mechanism Reporting Agent
BSC	Balancing and Settlement Code
CSD	Code Subsidiary Document
EBGL	Electricity Balancing Guideline
ENTSO-E	European Network of Transmission System Operators for Electricity
EU	European Union
GB	Great Britain
GMT	Greenwich Mean Time
IP	Implementation Period
IWA	Initial Written Assessment
NETSO	National Electricity Transmission System Operator
REMIT	Regulation on Wholesale Energy Market Integrity and Transparency
SCR	Significant Code Review

## External links

A summary of all hyperlinks used in this document are listed in the table below.

All external documents and URL links listed are correct as of the date of this document.

External Links		
Page(s)	Description	URL
3	BSC Section F 'modification Procedures'	<a href="https://www.elexon.co.uk/documents/bsc-codes/bsc-sections/bsc-section-f-modification-procedures/">https://www.elexon.co.uk/documents/bsc-codes/bsc-sections/bsc-section-f-modification-procedures/</a>
3	BSC Section X annex X-1 'General Glossary'	<a href="https://www.elexon.co.uk/the-bsc/bsc-section-x-annex-x-1-general-glossary/">https://www.elexon.co.uk/the-bsc/bsc-section-x-annex-x-1-general-glossary/</a>
5	Withdrawal Act 2018	<a href="https://www.legislation.gov.uk/ukpga/2018/16/crossheading/retention-of-existing-eu-law/enacted">https://www.legislation.gov.uk/ukpga/2018/16/crossheading/retention-of-existing-eu-law/enacted</a>