

Explanatory Memorandum to
Modifications to the standard conditions of the electricity and gas supply licences,
Smart Meter Communication Licence and the Smart Energy Code

SMART METERS No.[N] of 2019

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy (BEIS) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These modifications further develop the regulatory framework to support the rollout and operation of smart meters in Great Britain, in line with the Government's policy aim for every home and smaller business in Great Britain to be offered a smart meter by the end of 2020. They modify standard conditions incorporated in electricity and gas supply licences ("energy supply licence conditions"), conditions in the Smart Meter Communications Licence ("SMCL") and sections of the Smart Energy Code ("the SEC").

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None. These are licence and code modifications under section 88 of the Energy Act 2008 and not a Statutory Instrument.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England, Wales and Scotland.
4.2 The territorial application of this instrument is England, Wales and Scotland.

5. European Convention on Human Rights

- 5.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Section 88 of the Energy Act 2008 gives the Secretary of State the power to modify certain licences and industry codes for specified purposes. These modifications fall

within the scope of this power. Since 2013, BEIS (formerly the Department of Energy and Climate Change) has made licence modifications to develop the smart metering regulatory framework. These modifications further develop that framework.

7. Policy background

What is being done and why?

- 7.1 Smart meters are a vital upgrade to our energy infrastructure, enabling a smarter energy system and energy consumers to be better informed and engaged. The Government's aim is for every home and smaller business in Great Britain to be offered a smart meter by the end of 2020. The roll-out of smart meters is playing an important role in Britain's transition to a low-carbon economy and helping to meet some of the long-term challenges in ensuring an affordable, secure and sustainable energy supply.
- 7.2 This instrument makes amendments to support the achievement of energy savings from the microbusiness sector, including through placing new objectives on the Central Delivery Body (Smart Energy GB) responsible for centralised supplier communications, to raise microbusinesses' awareness and understanding of smart meters, and to increase their willingness to use Smart Metering Systems to change their behaviour. The amendments also allow suppliers access to microbusiness data in specified circumstances for example on matters relating to billing and consumer enquiries. In addition, it also progresses technical amendments to support the enrolment of first generation smart meters into the Data Communications Company ("DCC") thereby supporting the objective that no consumer should lose smart services on change of supplier. Furthermore, it provides an enabling framework for the development of the technical mechanism for change of supplier events in relation to smart meters. These amendments are set out in more detail below:

Amendments to the energy supply licence conditions on consumer engagement to extend the Central Delivery Body's remit to raise awareness amongst microbusinesses

- 7.3 To help ensure that the Programme's projected non-domestic energy saving benefits are achieved, microbusiness consumers need to understand that smart meters are also available for them and how they work. Microbusinesses are less likely than larger businesses to be engaged in their energy use, and research indicates that their awareness of smart metering is low.
- 7.4 Communications designed for the domestic sector do not tend to have meaningful impact on non-domestic consumers. Therefore, tailored messaging is needed, so that businesses understand what the smart transformation means for them and how they can benefit.
- 7.5 The amendments to the supply licence conditions extend the Central Delivery Body's (Smart Energy GB) currently very constrained remit to target microbusinesses with awareness raising activities. Under the amended conditions Smart Energy GB will be required to raise microbusiness awareness and understanding of smart meters, and encourage energy saving behaviour changes after the meters are installed. This will be subject to value for money considerations, and the work will be funded by those energy suppliers who are active in the smart-mandated non-domestic market.

Amendments to the energy supply licence conditions to allow suppliers access to microbusinesses' data in specified circumstances

- 7.6 Current licence conditions only allow suppliers to access microbusiness data at levels more granular than monthly if the energy supplier has given at least seven days' notice informing the consumer of their intention to obtain consumption data and the purpose for which it is needed.
- 7.7 The amendments to licence conditions will align exceptions available to suppliers to access microbusiness energy consumption data with those already in place for the domestic sector. These exceptions will allow energy suppliers in the microbusiness sector to meet licence requirements on matters relating to theft, and on matters relating to billing and consumer enquiries relating to the supply of energy to the premises. These would apply even where the microbusiness has opted-out (objected).

Modifications to the smart metering regulatory framework in order to enable the provision of a SMETS1 service by the DCC

- 7.8 The DCC provides services for energy suppliers in respect of second generation (SMETS2) smart meters, which provide interoperability for customers allowing them to reliably maintain their smart services when they switch energy supplier. Smart meters installed in the initial stages of the rollout by energy suppliers using their own data and communications systems are known as "SMETS1 meters". While these meters provide the same benefits as SMETS2 meters in terms of accurate bills and near real-time energy consumption information, consumers may lose smart services on switching to another energy supplier, depending on which energy supplier they are switching to and from.
- 7.9 The Government's overall aim is for interoperability of SMETS1 meters so that smart functionality is retained when a customer switches energy supplier. Enrolment of SMETS1 meters in the national data and communications network provided by the DCC will deliver this objective and provide a number of additional benefits, including rationalising smart metering interfaces and processes within energy supplier businesses. The Government has already concluded that it will require the DCC to provide a SMETS1 service for four of the six SMETS1 meter cohorts,¹ and has recently consulted on requiring the DCC to provide a SMETS1 service in respect of the Secure meter cohort making up the vast majority of the remaining meters.²
- 7.10 The modifications will enable the provision of a SMETS1 service by the DCC and will amend existing requirements in relation to Cryptographic Processing to reflect technical differences between SMETS1 and SMETS2 meters and associated systems. The modifications also update the requirement for the DCC to publish a list of the Device Model Combinations in relation to which it is testing its ability to offer a SMETS1 Service (the SMETS1 Pending Product Combinations list), to ensure that the DCC is not required to publish details of a Device Model Combination where it has been informed by the relevant Testing Participant that this information is to be kept confidential.

¹ See: <https://www.gov.uk/government/consultations/enrolment-of-smets1-meter-cohorts-with-the-data-communications-company>

² See: <https://www.gov.uk/government/consultations/enrolment-of-secure-smets1-meters-in-the-data-communications-company-dcc>

Introduction of a new condition in the DCC licence relating to the planning and implementation of Enduring Change of Supplier arrangements

- 7.11 Upon a change of supplier event, smart meter device security credentials need to be switched to the new responsible supplier so that they authenticate supply effecting commands from that supplier. The process for doing this (the ‘Transitional Change of Supplier’ (TCOS) process) is currently provided by the Data Services Provider as part of DCC. Government has previously stated its intention to develop this process to implement an enduring process (the ‘Enduring Change of Supplier (ECoS) process) with additional features. These Licence Conditions provide the enabling framework allowing Government to direct DCC to establish plans for delivery and to undertake development work.
- 7.12 The new licence condition requires the DCC to develop, consult upon, and submit to the Secretary of State for approval a plan to implement (including migration to) the ECoS arrangements. The licence condition permits the Secretary of State to direct that the plan be modified if considered to be necessary and for the DCC to resubmit the modified plan for approval if so directed.
- 7.13 Following the approval of the plan by the Secretary of State the DCC would be required to give effect to the plan including, amongst other things, progressing the necessary changes to existing relevant service capability and procuring additional relevant service capability and to facilitate the migration to that Service.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The Government does not intend to consolidate energy supply licence conditions. Consolidated versions of energy supply licence conditions will be available on Ofgem’s website, once these modifications come into force.

10. Consultation outcome

Amendments to the energy supply licence conditions to extend the Central Delivery Body’s (Smart Energy GB) remit to target microbusinesses

- 10.1 Between 24 January and 21 February 2019, BEIS consulted on proposed changes to energy supply licence conditions with a wide range of stakeholders including energy suppliers, trade associations, consumer groups and others as appropriate, in accordance with section 89 of the Energy Act 2008. The consultation document was published on gov.uk.³
- 10.2 We received a total of 31 responses to the consultation. The majority of respondents agreed that targeting microbusinesses in regard to raising awareness of smart meters was the right approach as these were the least-engaged non-domestic consumers. Organisations representing microbusiness consumers felt that the focus has been on

³ <https://www.gov.uk/government/consultations/smart-metering-implementation-programme-realising-non-domestic-benefits>

domestic customers for too long, and it is the right time to introduce a non-domestic campaign.

- 10.3 On the core proposal of whether to extend Smart Energy GB's remit to microbusinesses, the responses were evenly split, with half of stakeholders supporting the proposal (including trade bodies and consumer groups), and half preferring either no action, or a different solution (this group included many of the large energy suppliers). Respondents noted the importance of tailoring messages to a business audience, and the potential benefits of working with partner organisations and trusted intermediaries. The energy suppliers were concerned about the cost of additional campaign work.
- 10.4 Since the consultation we have explored the concerns raised in the responses, and the Government Response suggests ways in which the future microbusiness campaign could address these. It remains our view that there is benefit to a centralised campaign to encourage energy saving behaviour and understanding of smart meters, alongside energy suppliers' engagement activities, which will focus on installations among their own customer base. The exact scope and budget for the campaign will be for the energy suppliers and Smart Energy GB to agree, in line with the requirements of the licence conditions.

Amendments to the energy supply licence conditions to allow suppliers access to data where there is suspect of theft or for accurate billing

- 10.5 As part of the consultation mentioned in paragraph 10.1, on the question of whether licence conditions should be amended to allow suppliers access to data at a level more granular than monthly when there is suspicion of theft or for accurate billing purposes, BEIS received 23 responses, of which 22 stakeholders agreed. The one respondent who disagreed with the proposal felt the current licence conditions were sufficient.

Modifications to the smart metering regulatory framework in order to enable the provision of a SMETS1 service by the DCC

- 10.6 Between 26 March and 16 April 2019, BEIS consulted on the proposed technical modifications with a range of stakeholders, including energy suppliers, Ofgem and other interested parties, in accordance with section 89 of the Energy Act 2008. The consultation document was published on the SEC website and the Government response has also been made available on that website.⁴ During the consultation period a number of meetings were held with individual stakeholders and relevant smart metering governance groups to explain the proposals and respond to questions.
- 10.7 A total of 7 responses to the consultation were received from a range of stakeholders, including energy suppliers, the DCC and Energy UK. Over 70% of respondents supported our proposed modifications in relation to Cryptographic Processing. The one respondent not supporting the modifications did so on the basis of not having seen an assessment from the National Cyber Security Centre (NCSC). In reaching our conclusions on the proposed changes, we have engaged with the NCSC and the relevant smart metering governance group (the SEC Panel Security Sub-Committee), and this is reflected in the consultation response.

⁴ See: https://smartenergycodecompany.co.uk/latest_news/

- 10.8 The proposed changes relating to the SMETS1 Pending Product Combinations list received broad support and were not opposed by any of the respondents to the consultation.

Introduction of a new condition in the DCC licence relating to the planning and implementation of Enduring Change of Supplier arrangements

- 10.9 Between 9 January and 21 February 2019, BEIS consulted on proposed changes to the DCC licence to require the DCC to develop and implement plans to support Enduring Change of Supplier arrangements. This consultation sought views from a range of stakeholders including energy suppliers, network operators, meter asset providers, consumer groups and others as appropriate, in accordance with section 89 of the Energy Act 2008. The consultation document was published on the SECAS website.⁵
- 10.10 A total of five responses to the consultation were received. All respondents expressed support for the introduction of the additional licence condition, although with some noting that its application will be dependent on the results of further consultations on the specific ECoS design.
- 10.11 The Government response to the January consultation was published on the SECAS website.⁶

11. Guidance

- 11.1 Guidance in addition to this memorandum is not required.

12. Impact

- 12.1 There is no, or no significant, impact on charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because an updated Cost Benefit Analysis for smart metering was published in November 2016. It estimated the costs and benefits associated with the GB roll-out of smart meters and identified a substantial net benefit of £5.7 billion for the period to 2030 from the programme,⁷ yielding £1.5 of savings for every £1 spent. The estimated overall direct impact on businesses of the roll-out of smart meters is an equivalent annual net cost of £36 million. These modifications will assist in ensuring that these net benefits are secured.
- 12.4 The assessment published in November 2016 of the effect that the smart meter roll-out will have on the costs of business and the voluntary sector is available at:
<https://www.gov.uk/government/publications/smart-meter-roll-out-gb-cost-benefit-analysis>

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.

⁵ See: <https://smartenergycodecompany.co.uk/latest-news/beis-consultation-introduction-new-dcc-licence-condition-relating-enduring-change-supplier-arrangements/>

⁶ <https://smartenergycodecompany.co.uk/latest-news/beis-conclusions-on-the-introduction-of-a-new-dcc-licence-condition-relating-to-the-enduring-change-of-supplier-arrangements/>

⁷ Central projections, 2011 prices, discounted to 2016.

- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken by the Government is to consistently take steps to ensure the regulatory burden on them is minimised and that the proportionality of changes is reviewed on a regular basis. In designing smart metering regulations, the Government continues to engage in extensive consultation with all affected parties, including small businesses, to ensure that a broad range of stakeholders' views is considered and to facilitate proportionality.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that, having consulted them and others on the policy, we decided to regulate all energy suppliers given the benefits of the modifications to consumers generally. The smart metering cost-benefit analysis provides an assessment of the impact of smart metering on small and micro-businesses.⁸

14. Monitoring & review

- 14.1 The Government's Monitoring and Evaluation Strategy will ensure that the smart meter roll-out is at all stages subject to a comprehensive and integrated review and evaluation process. Ofgem will be responsible for monitoring compliance with licence conditions and taking enforcement action where necessary.

15. Contact

- 15.1 Abidemi Olowogbemi (tel: 02072153172; email: Abidemi.Olowogbemi@beis.gov.uk) at the Department for Business, Energy and Industrial Strategy can be contacted with any queries regarding the instrument.
- 15.2 Duncan Stone, Head of Delivery for Smart Metering at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Chris Skidmore, Minister of State for Universities, Science, Research and Innovation at the Department for Business, Energy and Industrial Strategy, can confirm that this Explanatory Memorandum meets the required standard.

⁸ See: <https://www.gov.uk/government/publications/smart-meter-roll-out-gb-cost-benefit-analysis>