

**EXPLANATORY MEMORANDUM TO
MODIFICATIONS TO THE STANDARD CONDITIONS OF ELECTRICITY AND
GAS SUPPLY LICENCES, THE CONDITIONS OF SMART METER
COMMUNICATION LICENCES AND THE SMART ENERGY CODE**

(SMART METERS No 1. of 2018)

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 roll-out and operation of smart meters in Great Britain, specifically in respect of those non-domestic premises in scope of the rollout. This is 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 of the smart meter communication licences ("the DCC Licence") granted to Smart DCC Ltd ("DCC") 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 or code modifications under section 88 of the Energy Act 2008 and not a Statutory Instrument.

Other matters of interest to the House of Commons

- 3.2 None.

4. Legislative Context

- 4.1 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 and are changes to energy supply licence conditions, the DCC Licence and the SEC required to facilitate the installation and operation of smart meters.
- 4.2 Since 2013, BEIS (formerly the Department of Energy and Climate Change) has made a number of licence and code modifications to develop the smart metering regulatory framework. These modifications further develop that framework.

5. Extent and Territorial Application

- 5.1 These modifications extend and apply to Great Britain.

6. European Convention on Human Rights

- 6.1 As these modifications are not subject to the affirmative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The Government is committed to energy suppliers offering smart electricity and gas meters to every home and small business by the end of 2020. The non-domestic smart meter rollout¹ covers around two million sites. We estimate that around 70% of these are microbusinesses and the remaining sites are occupied by small and medium-sized enterprises (SMEs) and large businesses with multiple sites, of which some are in scope of the rollout. These modifications to the smart metering regulatory framework will ensure that microbusiness consumers can access the full benefits of the smart meter rollout, whilst at the same time delivering more proportionate regulation that reflects the needs of larger non-domestic consumers and the market that serves them.
- 7.2 In August 2017, following two consultations and extensive stakeholder engagement, the Government published its decision to require energy suppliers to non-domestic premises to use the Data and Communications Company (DCC) for the operation of the second version of Smart Metering Equipment Technical Specification (SMETS2) meters. The DCC will provide interoperability for energy consumers, allowing them to reliably maintain their smart services when they switch energy supplier. Before the Government's decision, non-domestic energy suppliers had the option to use communications services other than those provided by DCC for SMETS2 meters. The consultation responses and evidence from the Competition and Markets Authority supported the Government's position that small businesses were unlikely to benefit fully from interoperable smart meters if this option was retained. Further, there was no firm evidence of an alternative provider coming forward to offer an equivalent service to DCC.
- 7.3 Two key modifications to energy supply licence conditions are required to implement the Government's decision. The first is the introduction of a requirement for energy suppliers to become users of DCC by 31 August 2018 in order to operate SMETS2 meters ("the DCC User mandate"). The second is a requirement for energy suppliers to commission SMETS2 meters within DCC systems once they are installed at non-domestic premises ("the Enrolment Mandate"). These modifications also include an exemption from the DCC User mandate for energy suppliers that supply larger businesses with mostly high-energy consuming sites, and that do not have SMETS2 meters within their portfolio. These energy suppliers must become a DCC user if they intend to operate a SMETS2 meter at a later date.
- 7.4 Additionally, the Government is making consequential changes to the DCC Licence and sections of the Smart Energy Code to reflect that all SMETS2 meters installed at non-domestic premises will be operated via DCC. DCC's charging regime, which is set out in section K of the Smart Energy Code, will also be simplified so that there is

¹ Energy supply licence conditions require energy suppliers to install smart metering systems (or in some circumstances, advanced meters) at premises whose average annual gas consumption is below 732 MWh per year and at all premises in electricity Profile Classes 1-4.

uniform charging for domestic and non-domestic smart meters enrolled in DCC. These changes bring the non-domestic sector in line with the domestic sector.

- 7.5 Separately, having considered representations from stakeholders, the Government is also modifying energy supply licence conditions to allow energy suppliers to offer all SME and larger non-domestic consumers (but not microbusinesses) an explicit choice between two metering technologies - a smart meter and an advanced meter². This modification gives larger, more informed energy consumers the flexibility to choose the meter type and the accompanying energy services that are most suited to their energy management requirements, including enabling commercial and operational benefits of a single metering solution across their portfolio of sites. When offering a choice between meter types, the energy supplier will be required to provide information on the differences between the technologies so that the consumer can make their decision in light of all the relevant information.

Consolidation

- 7.6 The Government does not intend to consolidate energy supply licence conditions, the DCC Licence or the Smart Energy Code (SEC). The SEC is published on the SEC website³. Consolidated versions of the supply licences will be available on Ofgem's website⁴ once these modifications come into force.

8. Consultation outcome

- 8.1 The latest consultation document was published on gov.uk on 31 August 2017⁵. BEIS has consulted on these modifications with a range of stakeholders including energy suppliers, trade bodies, meter operator providers, DCC, Ofgem and others as appropriate, in accordance with section 89 of the Energy Act 2008.
- 8.2 We received a total of 37 responses to the consultation.
- 8.3 The majority of respondents agreed that the proposed modifications to the regulatory framework would implement the Government's decision to require energy suppliers to use DCC for the operation of SMETS2 meters. However, three respondents were concerned that the proposed DCC User mandate date of 31 August 2018 was too early. The Government has considered these views and further engaged with stakeholders. It has concluded that the proposed date will enable interoperability for consumers as soon as possible, and it is encouraged by the fact that many non-domestic energy suppliers have already made good progress towards becoming a DCC User. Moreover, the User mandate exemption ensures that the obligation is applied proportionately.
- 8.4 Respondents to the consultation also agreed with the Government's proposal to modify energy supply licence conditions so as to exempt specialist energy suppliers to larger non-domestic consumers from having to become a DCC User. The Government agrees with the point raised by some respondents that the eligibility criteria for the

² An advanced meter provides half-hourly electricity and hourly gas data that can be remotely accessed by the energy supplier and to which the consumer can have timely access.

³ <https://smartenergycodecompany.co.uk/the-smart-energy-code-2/>

⁴ <https://www.ofgem.gov.uk/licences-codes-and-standards>

⁵ See: <https://www.gov.uk/government/consultations/non-domestic-smart-metering-policy-proposals-and-draft-legal-text>

exemption should be simplified so that an energy supplier will qualify if compliant advanced meters are installed or eligible to be installed at all the relevant premises that it supplies. The exemption will continue to apply until the energy supplier intends to operate a SMETS2 meter. In line with consultation views and our own market intelligence, this change will still deliver the policy as intended.

- 8.5 Finally, consultation respondents agreed in principle with the Government's proposal to allow energy suppliers to offer larger consumers an explicit choice between an advanced meter and a smart meter. Balancing the views submitted against the wider market context, the Government has decided to broaden its proposed definition of large consumers so that energy suppliers can offer a choice to all SME and large energy consumers with premises covered by the smart meter rollout. The Government also agreed with the point raised by some respondents that energy supply licence conditions should be amended to require energy suppliers to make clear when a choice is being offered. In line with this, the Government response sets out our intention to change licence conditions to require energy suppliers, when offering a choice, to provide relevant information that allows the consumer to make an informed decision. The Government also intends to keep this policy under review to ensure it is operating as intended and consumers are benefitting.

9. Guidance

- 9.1 This Explanatory Memorandum; the consultation, associated response and supporting documents can be found at: <https://www.gov.uk/government/consultations/non-domestic-smart-metering-policy-proposals-and-draft-legal-text>.
- 9.2 In addition, the Government will publish, alongside its response to the consultation, a complementary easy-to-access guide and FAQs that summarise its non-domestic smart metering policy and what this requires of non-domestic energy suppliers. This guide can be accessed at: <https://www.gov.uk/government/publications/smart-metering-non-domestic-leaflet>.

10. Impact

- 10.1 An updated Cost Benefit Analysis for smart metering was published in November 2016. This estimated the costs and benefits associated with the GB rollout of smart meters and identified a substantial net benefit of £5.7 billion for the period to 2030 from the programme, with the rollout to non-domestic premises contributing an estimated £2.0 billion. The estimated overall direct impact on businesses of the rollout of smart meters is an equivalent annual net cost of £36 million. These modifications will assist in ensuring that these net benefits are secured.
- 10.2 The impact on the public sector is nil.
- 10.3 The assessment published in November 2016 of the effect that the smart meter rollout 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>

11. Regulating small business

- 11.1 These modifications ensure that small businesses can retain their smart metering services when they switch energy suppliers. They also give specialist, small energy

suppliers the commercial flexibility to decide when to become a DCC User based on the needs and preferences of their larger energy consumer base.

- 11.2 This reflects the approach taken by the Government to consistently take steps to ensure the regulatory burden on small businesses (employing up to 50 people) is minimised and that the proportionality of changes is reviewed, on a regular basis.
- 11.3 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.

12. Monitoring and review

- 12.1 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.

13. Contact

- 13.1 Please contact Sarah Whenham (tel: 0300 068 6455 or email: Whenham-Barber@beis.gov.uk) or Nicola Barber (tel: 0300 068 6147 or email: Whenham-Barber@beis.gov.uk) at the Department for Business, Energy and Industrial Strategy with any queries relating to these modifications.