



Department for
Business, Energy
& Industrial Strategy

Energy Security Bill Policy Statement

Smart metering

August 2022



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Summary

The Energy Security Bill was introduced into Parliament on 6 July 2022. This Bill will deliver a cleaner, more affordable and more secure energy system for the long term. It builds on the ambitious commitments in the British Energy Security Strategy to invest in homegrown energy and maintain the diversity and resilience of the UK's energy supply.

The Bill makes provisions to extend by five years the time for the Government to exercise powers under the Energy Act 2008 in relation to smart metering, as well as associated powers in the Electricity Act 1989 and Gas Act 1986 (the "Electricity and Gas Acts").

Smart meters are replacing traditional gas and electricity meters as part of a national infrastructure upgrade that will make our energy system more efficient and flexible, enabling us to use more renewable energy and reduce our reliance on imported fossil fuels.

The Government's vision is for as many homes and small businesses as possible in Great Britain to have smart meters. To achieve this, the Government established, and has driven, the Smart Metering Implementation Programme, to drive industry led activity to ensure the rollout of electricity and gas meters to domestic and smaller non-domestic properties.

The extension of time for exercising the Government's powers is intended to provide the Government with a way of ensuring the Smart Metering Implementation Programme is successfully delivered, enabling the Government to continue to drive the rollout of smart meters across Great Britain.

What are we going to do?

The Government has existing powers under the Energy Act 2008 in relation to smart metering, as well as associated powers in the Electricity Act 1989 and Gas Act 1986 (the “Electricity and Gas Acts”). These powers currently expire on 1 November 2023. **The Energy Security Bill would extend both sets of powers by 5 years, to 1 November 2028.**

The **Energy Act 2008** provides the Secretary of State with powers to **modify gas and electricity licence conditions and industry codes** to support delivery of the smart meter rollout. These powers enable the Government to fulfil its role in continuing to develop smart metering policy and strategy and to provide the right regulatory framework against which energy suppliers and network operators can plan and deliver. This in turn enables the Government to ensure that the benefits of transitioning to a smart energy system are delivered to consumers.

The **Electricity and Gas Acts** give the Government the power to establish **licensable activities** in relation to smart meters. This gives the Government a means by which to establish monopoly providers of specific services related to smart meters, or to establish binding rules in licences for anyone wishing to provide a service competitively. This power was previously used to establish the provision of a smart meter communication service as a licensable activity, which led to the granting of the Smart Meter Communication Licence currently held by the Data Communications Company (“the DCC”). This licence has enabled the DCC to run the national smart metering communications network, avoiding the cost of each energy supplier having their own smart metering communications system and enabling consumers to keep smart services after switching energy supplier.

Why are we extending these powers?

To continue to ensure an effective rollout of smart meters, we consider it is essential that the Government is able to modify electricity and gas licence conditions, smart meter communication licence conditions, and industry codes for the purposes of smart metering up to 2028. We also consider it essential that the Government retain the power to establish licensable activities in relation to smart meters.

Without these powers the Secretary of State would likely not be able to act on evidence to remove any barriers to the rollout of smart meters and would be unable to ensure that benefits for consumers are fully realised.

A new policy Framework for smart metering commenced on 1 January 2022 and runs for 4 years to 31 December 2025. The Government has previously announced that it would undertake a mid-point review of the four-year policy Framework in 2023 and has committed to undertake a post-implementation review of the rollout after 2025. The Government may need to make amendments to licence conditions and industry codes following these reviews, or in light of wider evidence, between 2023 and 2028 to ensure the continued delivery of the rollout, the ability to remove any unforeseen barriers and maximise the benefits of the enduring smart metering system.

How will we use the powers?

Licence and code modifications

The new policy Framework that commenced on 1 January 2022 sets energy suppliers minimum annual targets for smart meter installations. So far, these installation requirements have been set for the first two years of the Framework. There will be a mid-point review of the Framework in 2023. Installation requirements for the final two years will be set and consulted upon following the conclusion of this review. In response to this mid-point review, we may need to make changes to the regulatory obligation that sets energy suppliers' annual smart meter installation requirements in Year 3 (2024) and Year 4 (2025) of the Framework to ensure these targets continue to be robust and effective.

Following the end of the new policy Framework in 2025, there will be a post-implementation review of the rollout. As a result of this review, the Government may wish to make changes to licence conditions and industry codes to ensure the enduring regulatory regime maximises the benefits of the smart meter rollout for households and smaller non-domestic organisations. As the Government reduces its involvement in smart metering over time it will be necessary to ensure that the governance regime and operating environment for smart meters continues to be fit for purpose in the future. The Energy Act 2008 powers would be necessary to implement any changes to licences or codes needed to deliver this ongoing regime.

The Government may need to use these powers to support operational delivery of smart metering technology. The Data Communications Company provides smart metering communications to domestic and smaller non-domestic premises. There are a number of plans and programmes led by the Data Communications Company that may require the Government to use the powers to introduce modifications to the Smart Energy Code after November 2023. These include programmes to deliver the connectivity of the smart metering system as communication technologies evolve over time.

In addition, amendments to licences or codes may be necessary to remove unforeseen barriers to the rollout such as addressing technical issues or any legal interpretation issues.

Licensable activities

Circumstances could develop after 2023 that would make it necessary to create licensable activities to overcome rollout barriers and ensure the benefits of smart meters are realised.

This power was last used in 2013 to establish the provision of a Smart Meter Communication Licence. The term of the existing Smart Meter Communication Licence expires in September 2025. The energy regulator, Ofgem, will be responsible for appointing a replacement licensee. As part of this, Ofgem is conducting a wider review of the Smart Meter Communication Licence and the nature of the organisation that should be the licence holder. It is possible that this review reveals the need for a new smart metering-related licensable activity, requiring the Government to exercise the power to create such an activity.

In addition, the post-implementation review of the smart meter rollout will consider whether any changes are needed to support the enduring governance arrangements for smart metering, as Government involvement is reduced in the future. It is possible that this investigation of future needs will reveal that new licensable activities are required to support the smart metering system on an ongoing basis. Before establishing any new licensable activities, the Government would consider policy options, impacts and stakeholder views.

How do the powers work?

Before using either of these powers, the Government would need to go through the normal policy-making process. This will include conducting relevant impact assessments and Public Sector Equality Duty assessments as needed.

In relation to licence and code modifications, this includes consulting with licensees, Ofgem and other stakeholders with an interest in both the policy and draft proposed modifications. Following the consultation period, we would publish a Government response and lay the draft proposed modifications before Parliament for a period of 40 days using a procedure that is equivalent to a negative resolution procedure.

In relation to establishing licensable activities, the Government would follow the procedure set out in section 41HB of the Gas Act 1986 and section 56FB of the Electricity Act 1989. This would involve consulting on the policy and the draft order with relevant stakeholders, including those directly impacted, and Ofgem. As there is likely to be parliamentary interest in any change to the range of licensable activities under the Gas and Electricity Acts, any use of this power would be subject to the affirmative procedure. This means that following the consultation period, a draft of the statutory instrument containing the order would be laid before Parliament and would not be made unless approved by both the House of Commons and the House of Lords.

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