

**EXPLANATORY MEMORANDUM TO
THE SMART METERS MODIFICATIONS TO THE SMART ENERGY CODE AND
THE CONDITIONS OF THE SMART METER COMMUNICATION LICENCES
(SMART METERS) NO. [1] OF 2024**

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Energy Security & Net Zero and is laid before Parliament by Command of his Majesty.

2. Declaration

- 2.1 Lord Callanan, Minister for Energy Efficiency and Green Finance at the Department for Energy Security & Net Zero confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Daron Walker, Senior Responsible Owner for the Smart Metering Implementation Programme at the Department for Energy Security & Net Zero confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 David Aknin at the Department for Energy Security & Net Zero Telephone: 07741699253 or email: david.aknin@energysecurity.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 This instrument amends the Smart Meter Communication Licences¹ and the Smart Energy Code (SEC)² to enable Smart DCC Ltd ('the DCC') to provide 4G communications services to smart meters in the central and south regions of Great Britain.

Where does the legislation extend to, and apply?

- 4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.
- 4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

5. Policy Context

What is being done and why?

- 5.1 The introduction of a 4G communications service is part of DCC's planned upgrade to its smart metering communications infrastructure in advance of 2G/3G services being withdrawn by relevant service providers late in 2033 as communicated in the Joint

¹ <https://www.ofgem.gov.uk/energy-policy-and-regulation/industry-licensing/licences-and-licence-conditions>

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

Statement of the Sunsetting of 2G and 3G Networks³. The DCC has contracts in place to provide 4G services and is at a late stage of testing the capability. The effect of this instrument will be that on a transitional basis, the DCC will be able to provide communications hubs and Wide Area Network (WAN) services utilising both 2G/3G and 4G technologies, although the requirement for the former will eventually be phased out. This instrument is needed to ensure that the 4G service capability that the DCC has procured is made available to energy suppliers so they can place reliance on the service being available to them for new installations of smart metering systems. The requirements in this instrument must be in place before the 4G communications service goes live for pilot installations which is expected in early December 2024.

What was the previous policy, how is this different?

- 5.2 The DCC previously supported one communications service in the central and south regions of Great Britain utilising 2G/3G networks. This instrument extends this to include a 4G communications service. The DCC has signed contracts that require coverage continues to be provided to 99.25% of premises in the central and south regions.

6. Legislative and Legal Context

How has the law changed?

- 6.1 There are no changes to primary or secondary legislation as a consequence of this instrument. Instead, it makes changes only to conditions of the Smart Meter Communication Licences and to the SEC. The SEC is a regulated contract between the DCC (the holder of the Smart Meter Communication Licences) and energy suppliers and other persons wishing to communicate with Smart Meters. The SEC sets out the contractual arrangements under which the DCC provides its smart metering related services to these persons.
- 6.2 The Smart Meter Communication Licence is a single document that constitutes a licence under both the Gas Act 1986 and the Electricity Act 1989, and hence is legally two licences in one (and hence the reference to Smart Meter Communication Licences in the plural in certain instances in this document). Custom and practice is to refer to it in the singular, and this is the approach adopted for the purposes of the remainder of this document.
- 6.3 This instrument amends Condition 17 of the Smart Meter Communication Licence to require the DCC to provide additional communication services, in particular geographic regions, as is further defined in the SEC. This instrument also amends Condition 16 of Schedule 1 to the Smart Meter Communication Licence to clarify that the capability provided to the DCC in the contracts underpinning the provision of the communications services, themselves form part of its Fundamental Service Capability (FSC). The SEC is also being amended to enable the DCC to provide, in addition to the existing 2G/3G communications services, a new 4G communications service in the central and south region of Great Britain as well as to enable the DCC to make available Communications Hubs that can communicate using the 4G network. The north region of Great Britain uses a long-range radio communications technology and is outside the scope of the changes being made. The introduction of the requirement to provide the new 4G Communications Service requires a number of new SEC definitions, or changes to existing definitions, and a number of changes that reflect the

³ <https://www.gov.uk/government/news/a-joint-statement-on-the-sunsetting-of-2g-and-3g-networks-and-public-ambition-for-open-ran-rollout-as-part-of-the-telecoms-supply-chain-diversificatio>

different contractual terms that DCC has agreed in the contracts that underpin the provision of the new service. For example, different provisions relating to liquidated damages in the event that the DCC provides faulty Communications Hubs.

Why was this approach taken to change the law?

- 6.4 The DCC's decision to introduce 4G communications services is vital to ensuring the long-term continuity of smart metering services. The DCC's plan for introducing these services has been approved by Government pursuant to Condition 13B of the Smart Meter Communications Licence¹. Delivery of the plan is being closely monitored and necessary facilitatory changes to the Smart Meter Communications Licence and SEC are being led by Government in support of this plan.
- 6.5 The exercise of powers under section 88 of the Energy Act 2008 is the only available means by which Government can make changes to the Smart Meter Communications Licence and the SEC.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 The Department for Energy Security & Net Zero consulted with SEC Parties upon the proposed changes to the Smart Meter Communication Licence and the SEC between 1 and 29 September 2023. The consultation was published on the SEC Administrator & Secretariat (SECAS) website and was made publicly available. The Department for Energy Security & Net Zero received a total of four consultation responses and published a conclusions document on the SECAS website on 20 December 2023⁴. All four respondents supported the proposed changes to the Smart Meter Communication Licence and SEC with some respondents making additional proposals which were duly considered. Following consideration of the comments received the Department for Energy Security & Net Zero did not make any changes to the legal text as originally consulted upon.

8. Applicable Guidance

- 8.1 The Government does not intend to publish any guidance related to these modifications. The Smart Energy Code Administrator and Secretariat (SECAS) has duties to provide advice and support to SEC Parties on the SEC.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because this instrument only legally enables the DCC to deliver the services that it has already procured. An updated Cost Benefit Analysis for smart metering was published in September 2019⁵. This estimated the costs and benefits associated with the GB roll-out of smart meters and identified a Net Present Value of £6 billion for the appraisal

⁴ <https://smartenergycodecompany.co.uk/latest-news/smart-metering-implementation-programme-response-to-consultation-on-changes-to-the-dcc-licence-and-the-smart-energy-code-for-the-4g-communications-hubs-networks-programme/>

⁵ <https://www.gov.uk/government/publications/smart-meter-roll-out-cost-benefit-analysis-2019>

period from 2013 up to and including 2034⁶, yielding £1.44 of benefit for every £1 spent. The level of smart meter coverage needed to reach breakeven, after which the benefits accrued begin to exceed the total fixed and already accrued costs of the roll-out, was achieved during 2019. Therefore, all meters installed after this point provide a positive net benefit to society. These modifications will assist in ensuring that these net benefits are secured.

Impact on businesses, charities and voluntary bodies

- 9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument only legally enables the DCC to deliver the services that it has already procured.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The approach to monitoring of this legislation is such that, the Government's monitoring, and evaluation Strategy for the SMIP will ensure that the SMIP is subject to an ongoing review and evaluation process, which will include process and impact evaluation activities. The Authority continues to be responsible for monitoring and taking licence enforcement action, where necessary, in line with its guidelines. The SEC Panel continues to have responsibility for enabling the SEC to be implemented transparently and effectively.
- 10.2 The instrument does not include a statutory review clause as it is not a statutory instrument.

⁶ Central projections, 2012 prices, discounted to 2019. Previous Cost Benefit Analysis (CBA) appraisal was in November 2016 covering 2013 – 2030. The updated CBA covers 2013-2034 (inclusive) to appraise the costs and benefits of one full cycle of smart meter installations.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 None. The instrument modifies conditions of the Smart Meter Communication Licences granted under the Gas Act 1986 and the Electricity Act 1989, and the SEC that is in turn established under conditions of those licences. The instrument is not a statutory instrument.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”). It does not relate to the withdrawal of the United Kingdom from the European Union.