DRAFT

EXPLANATORY MEMORANDUM TO

THE SMART METERS MODIFICATIONS TO THE SMART ENERGY CODE (SMART METERS) NO. [2] OF 2024

2024 No. 2

1. Introduction

1.1 This explanatory memorandum has been prepared by Department for Energy Security & Net Zero and is laid before Parliament in accordance with the Energy Act 2008 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 (the Department) 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 Boris Rogatchevski at the Department for Energy Security & Net Zero can be contacted with any queries regarding the instrument by telephone on 07741519320 or email: Boris.Rogatchevski@energysecurity.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes amendments to the Smart Energy Code (SEC)[1] to support the effective operation of existing security controls for Smart Metering devices.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument is Great Britain.

4.3 The territorial application of this instrument is Great Britain.

5. Policy Context

What is being done and why?

Smart Metering Device Assurance

5.1 The SEC is a regulated multi-party agreement that outlines the right and obligations of the Smart Data Communication Company (DCC), energy suppliers, network operators and other relevant entities that are involved in communicating with smart metering devices in Great Britain. As part of this, the SEC outlines the contractual arrangements under which the DCC, which holds the Licences for providing a smart metering communications service in Great Britian, provides such services to the entities.

[1] https://smartenergycodecompany.co.uk/about-the-smart-energy-code/

5.2 The instrument makes a number of changes to the security provisions in SEC Section G, to associated provisions in SEC Section F and SEC Section L, and to the related definitions in SEC Section A, to ensure continuity of arrangements for assuring that smart metering devices, which operate as part of the Smart Metering System in Great Britain, meet the necessary cyber security standard. This assurance of smart metering devices is currently provided by the Commercial Product Assurance (CPA) Scheme for Smart Metering, which is owned and operated by the National Cyber Security Centre (NCSC). The NCSC has decided to withdraw the current scheme from spring 2025. As the requirement to assure that smart metering devices conform to the necessary cyber security standard before they can be connected to the Smart Metering System remains, alternative arrangements for providing such assurance are required.

5.3 The instrument amends a range of provisions in SEC Section G to transfer overall responsibility to deliver, maintain, and operate the CPA Scheme from the NCSC to the SEC Panel's Security Sub-Committee (SSC) and provide for the SSC to procure an appropriate entity to operate a new scheme. Provision is also made to support a smooth transition to the new arrangements through amendments to SEC Section A, SEC Section F, and to SEC Section G. This instrument is needed to ensure that device manufacturers are able to develop new, and modify existing, Smart Metering devices that are assured to meet the required security standard so that they can be deployed on the smart metering network. The requirements in this instrument must be in place in Summer 2024 to support transition to the new arrangements prior to the NCSC's closure of the current scheme, which is expected in spring 2025.

Manufacturers as SEC Parties

5.4 This instrument amends some security-related elements of SEC Section G and SEC Section L to require device manufacturers who subscribe and use certain types of cryptographic keys to become SEC parties in order to ensure that users of these keys are subject to appropriate controls. The changes also provide for device manufacturers to have appropriate representation in the governance of security aspects of the SEC by providing for their representation at the SSC.

5.5 Commensurate with the obligations placed on other SEC Parties, by amending SEC Section G, the instrument obligates device manufacturers to notify the SSC of any material security vulnerabilities that they become aware of in their smart metering devices.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 88 of the Energy Act 2008 enables the Secretary of State to modify energy supply licences and industry codes, such as the SEC, for specific purposes related to installing and operating smart meters in Great Britain. The Department for Energy Security & Net Zero (and its predecessor Departments) has made a number of modifications to the SEC to develop the smart metering regulatory framework. The changes in this instrument further develop that framework. This instrument will only amend the main body of the SEC but will not change primary or secondary legislation.

Why was this approach taken to change the law?

6.2 Given the NCSC's intention to close the current CPA Scheme, the amendments to the SEC which are set out in this instrument will support continuity and effective maintenance of the current robust device security assurance arrangements for Great Britain's smart metering system. Without the instrument enabling alternative provision for such a mechanism, there will be no assurance mechanism by which manufacturers can satisfactorily demonstrate that new devices or firmware meet the security requirements necessary to be allowed to operate as part of the Smart Metering System in Great Britian.

6.3 The exercise of powers under Section 88 of the Energy Act 2008 is the only currently available approach by which Government can make amendments to the SEC for smart metering related purposes.

7. Consultation

Summary of consultation outcome and methodology

7.1 In accordance with Section 89 (1) of the Energy Act 2008 the Department consulted smart metering industry stakeholders on the changes to the SEC, which this instrument sets outs, between 26 February and 8 April 2024[2]. The consultation was published on the SEC Administrator & Secretariat (SECAS) website. The Department received a total of 10 consultation responses. All the respondents broadly supported the proposed changes. Some of the respondents made additional proposals that were duly considered. Having considered the comments from all the respondents, the Department made minor changes to the consulted upon legal text to clarify the drafting and definitions in SEC Section A and to clarify procedural elements relating to the new CPA Scheme in SEC Section G. The conclusions document will be published on the SECAS website alongside the laying of this Explanatory Memorandum.

8. Applicable Guidance

8.1 The Government does not intend to publish any guidance related to these changes. The 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 (Not required)

9.1 This instrument introduces changes relating to the future operation of the new CPA Scheme as alternative arrangements are needed because the NCSC, which is the owner and operator of the current CPA scheme, has decided to close the current scheme. The changes that this instrument outlines, are therefore to support continuity in effectively maintaining the existing device security assurance regime for smart metering devices in Great Britain. These changes are not considered to be regulatory changes. As a result, the overall impact on industry stakeholders participating in the new CPA Scheme, and on consumers, is likely to be negligible, and there is no or no significant environmental impact. **Therefore, an impact assessment is not required.**

9.2 The costs for the establishment and ongoing operation of the new CPA Scheme will be administered through an established cost recovery regime, which is widely used in smart metering and is subject to regulatory oversight by the Gas and Electricity Markets Authority. This provides for the scheme's fixed costs to be spread across all SEC Parties and recovered via a fixed charges mechanism. The costs relating to the establishment and ongoing operation of the new CPA Scheme are the only additional

[2] https://smartenergycodecompany.co.uk/latest-news/department-for-energy-security-net-zero-consultation-on-changes-to-the-sec-relating-to-the-commercial-product-assurance-cpa-scheme/

costs that are likely to accrue to SEC Parties. The costs for testing smart metering devices in laboratory settings are specific in nature, typically depending on the extent of the work that the testing may require, and so are likely to differ in respect of each device submitted for technical evaluation. Smart metering device manufacturers must meet the costs for testing the devices they submit for testing as is currently the case.

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 Smart Metering Implementation Programme (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 This instrument does not include a statutory review clause as it is not a statutory instrument.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None. The instrument modifies the Smart Energy Code (SEC) that was established under conditions of the Smart Meter Communication Licences, which were granted under the Gas Act 1986 and the Electricity Act 1989. The instrument is not a statutory instrument.

12. European Convention on Human Rights

12.1 The instrument is subject to negative resolution procedure and does not amend primary legislation, and so no statement is required.

13. The Relevant European Union Acts

13.1 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.