

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

(SMART METERS NO.1 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 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") 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.

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 the 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, and are changes to energy supply licence conditions and the SEC required to facilitate the operation of smart meters. 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.

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 policy 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 The roll-out of smart meters in Great Britain is being delivered in two stages: the Foundation Stage, which began in 2011, transitioning into the Main Installation Stage, which commenced in November 2016. This was the point when the national data and communications provider, the Data Communications Company ("the DCC"), became operational.
- 7.3 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 Foundation Stage must meet the first version of the Smart Metering Equipment Technical Specification and 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, energy suppliers installing these meters currently use their own communications systems to provide smart services. This means consumers may lose smart services on switching to another energy supplier, depending on which energy supplier they are switching to and from.
- 7.4 The Government's long-standing policy has been for all significant populations of SMETS1 meters to eventually be operated via the DCC to ensure consumers with these meters can retain smart services when they change energy supplier. Enrolment of SMETS1 meters with the DCC will 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 stated its intention to consult on the enrolment of the remaining two cohorts once sufficient information is available following further engagement between existing and prospective service providers and the DCC.
- 7.5 The Government has also required that energy suppliers take all reasonable steps to enrol their 'eligible' SMETS1 meters in the DCC within 12 months of the point from which it is possible to do so (or from the point an unenrolled eligible meter is gained on change of supplier), with a backstop of the end of 2020. This policy ("the SMETS1 enrolment mandate") mitigates the risk that the DCC solution is not used in a timely manner, which could delay the point at which consumers receive an interoperable SMETS1 service.
- 7.6 The modifications to the smart metering regulatory framework which are proposed by this instrument are required to enable the provision of a SMETS1 service by the DCC. They define when a SMETS1 meter will be considered eligible for enrolment for the purposes of the SMETS1 enrolment mandate². Further, in order to drive early

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

² See: <https://smartenergycodecompany.co.uk/download/9489>

enrolment of SMETS1 meters, these modifications oblige energy suppliers to take all reasonable steps to facilitate the SMETS1 meters for which they are responsible becoming eligible for enrolment as soon as reasonably practicable.

- 7.7 The instrument also makes a number of changes to adapt the regulatory framework to reflect certain technical differences between SMETS1 and SMETS2 meters and systems. These include modifying certain service management requirements and a number of definitions within the SEC to accommodate SMETS1 meters and systems.
- 7.8 Finally, and unrelated to the enrolment of SMETS1 meters, modifications are being made to move away from automatic suspension of smart services to devices and consumers where a SMETS2 meter's Commercial Product Assurance (CPA) certificate expires or is withdrawn. We are instead implementing a risk-based process that allows a variety of factors to be considered by the smart metering security governance group (the SEC Panel Security Sub-Committee) before taking a decision. This may include enabling additional time for remediation activities to take place in order for a group of devices to become CPA compliant again.

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 or the SEC. Consolidated versions of energy supply licence conditions will be available on Ofgem's website, and a consolidated version of the SEC will be available on the SEC website, once these modifications come into force.

10. Consultation outcome

- 10.1 Between 5 November and 3 December 2018, BEIS consulted on these proposed 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 website³. During the consultation period the proposals were widely promulgated across smart metering governance groups, and a number of meetings were held with individual stakeholders to explain the proposals and respond to questions.
- 10.2 A total of 11 responses to the consultation were received from a range of stakeholders, including energy suppliers, the DCC and Citizens Advice.
- 10.3 Two-thirds of respondents supported our proposed modifications in relation to when a SMETS1 meter will be considered eligible for enrolment for the purposes of the SMETS1 enrolment mandate, and one energy supplier respondent disagreed. Those who supported the proposals generally welcomed the additional clarity provided by these changes. In response to comments received from stakeholders, we have amended the drafting to ensure the dates from which SMETS1 meters are first considered eligible for enrolment are more clearly communicated to suppliers.

³ See: <https://smartenergycodecompany.co.uk/latest-news/government-response-to-5-november-2018-consultation-on-regulatory-changes-related-to-the-provision-of-a-dcc-smets1-service-and-changes-to-the-cpa-and-cpl-management-process-for-smets2-devices-and-co/>

- 10.4 The proposed obligation on energy suppliers to take all reasonable steps to facilitate the SMETS1 meters for which they are responsible becoming eligible for enrolment as soon as reasonably practicable was similarly opposed by only one energy supplier respondent, on the grounds that existing obligations already place sufficient incentives on suppliers to achieve the desired outcomes. In view of the broad support for this requirement, however, the Government continues to consider that the proposed obligation will help drive early enrolment of SMETS1 meters with the DCC.
- 10.5 Over 85% of respondents supported the proposed changes to the process for suspension of smart services where a SMETS2 meter's CPA certificate expires or is withdrawn, and none of the respondents disagreed with the proposals. In response to comments received from stakeholders, we intend to introduce a requirement for the SEC Panel Security Sub-Committee to notify relevant parties where it determines that a remedial plan is required to address CPA non-compliance.
- 10.6 The remainder of the proposed changes, which primarily involve modifying certain service management requirements and a number of definitions within the SEC to accommodate SMETS1 meters and systems, received broad support from respondents. However, we have modified or removed a number of our proposed amendments in response to specific feedback received from stakeholders. These detailed amendments are set out in full in the Government response.

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 programme⁴, yielding approximately £1.5 of benefit 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>. The Government has committed to publishing an updated Cost Benefit Analysis in 2019.

13. Regulating small business

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

⁴ Central projections, 2011 prices, discounted to 2016.

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.⁵

14. Monitoring & review

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

15. Contact

- 15.1 Richard Jones (tel: 0300 068 8067; email: Richard.Jones@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 The Rt Hon Claire Perry MP, the Minister of State for Energy and Clean Growth at the Department for Business, Energy and Industrial Strategy, can confirm that this Explanatory Memorandum meets the required standard.

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