

EXPLANATORY MEMORANDUM TO MODIFICATIONS TO THE SMART ENERGY CODE AND THE SMART METER COMMUNICATION LICENCES

SMART METERS

2020 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by 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 Government's policy for the roll-out and operation of smart meters in Great Britain. They modify the Smart Meter Communication Licences and various sections of the Smart Energy Code.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments or the Sifting Committees

- 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 at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent and application of these modification is Great Britain.

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 related to the roll-out of smart meters in Great Britain. The modifications being proposed fall within the scope of these powers and are changes to conditions of Smart Meter Communication Licences and to the Smart Energy Code. Since 2013, BEIS (formerly the Department of Energy and Climate Change) has made a number of licence and industry 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 Changes are being made to conditions of Smart Meter Communications Licences and to the Smart Energy Code (SEC). The Smart Meter Communications Licences are granted under the Gas Act 1986 and the Electricity Act 1989. In practice, both licences are embodied in a single document and both have been granted to Smart DCC Limited which acts as the Data and Communications Company (DCC) for GB Smart Metering. The DCC is the organisation that is charged with communicating with smart meters on behalf of energy suppliers and other organisations. The Smart Energy Code is an important part of the regulatory framework supporting the roll-out of smart meters in Great Britain. It sets out detailed operational arrangements for the smart metering system and the rights and obligations of different organisations involved: the DCC, energy suppliers, network operators and other users of the smart metering system.
- 7.2 The changes being made facilitate the rollout of smart meters and the enrolment of first generation (SMETS1) smart meters into the national smart data and communications network to ensure smart services can be maintained when consumers switch supplier.

Introducing an Interoperability Checker Service

- 7.3 SMETS1 meters that are eligible for enrolment are in the process of being migrated to the DCC network. Enrolment of SMETS1 meters with the DCC will enable consumers to retain smart functionality when they switch energy supplier. During the period of SMETS1 migration, consumers may wish to access information about whether they have an enrolled SMETS1 meter and which energy suppliers are able to operate their enrolled SMETS1 meter in “smart mode”. Changes are therefore being made for the DCC to provide an Interoperability Checker Service, which will make this information available to Energy Consumers via the Citizens Advice acting as the host organisation. This service will allow consumers to make informed decisions about switching energy suppliers during the period of SMETS1 migration.

Clarification of DCC Obligations relating to separation of SMETS1 Service Provider (SISPs) and Dual Control Organisations (DCOs).

- 7.4 These are detailed technical changes that clarify the requirements on DCC to keep various parts of the systems that it uses to communicate with SMETS1 meters logically separate from each other to deliver appropriate levels of system security.

Formalisation of Ofgem’s role on the Security Sub-Committee (SSC)

- 7.5 Ofgem’s role in the security of smart metering has increased as a result of the Network and Information Systems Regulations 2018 and changes are made to formalise Ofgem’s role on the Security Sub-Committee (SSC) – a SEC governance body – to reflect its increased security role.

Data Localisation

- 7.6 Data localisation requirements in the SEC and DCC Licence are removed to avoid the potential for conflict with requirements of the General Data Protection Regulation (GDPR).

Smart Metering Key Infrastructure (SMKI)

- 7.7 In order for a consistent set of oversight arrangements to be brought to bear on the management of cryptographic keys that are used as part of the secure end-to-end communication for SMETS1 meters, the governance regime that controls and provides oversight of the management of existing cryptographic keys is being extended to additionally cover the keys used in communications with SMETS1 meters. In addition, certain procedures are being extended to cover the steps that the SMKI Policy Management Authority and SEC parties need to take were certain cryptographic keys to be compromised.

Transitional provisions

- 7.8 Section X of the Smart Energy Code which deals with the transition to operational enduring governance of smart metering is extended so that it will endure until “completion of implementation” (a date designated by the Secretary of State, which is subject to conditions set out in the SEC) rather than the earlier of “completion of implementation” and 31 December 2020. This will allow the residual flexibility afforded by Section X to be retained after 31 December 2020 and enable, for example, the re-designation of subsidiary documents by the Secretary of State from time to time.

DCC Charging

- 7.9 The way that DCC charges for its services was due to change on 30 December 2020. This change will now be made at the end of financial year (i.e. 31 March 2021) in order to make financial planning and management easier for both DCC and energy suppliers.

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 the Smart Meter Communication Licences or the Smart Energy Code. A consolidated version of the Smart Meter Communication Licences will be available on Ofgem’s website¹ once these modifications come into force, and a consolidated version of the Smart Energy Code will similarly be available on the SEC website².

10. Consultation outcome

- 10.1 In accordance with section 89 of the Energy Act 2008, BEIS issued a consultation on these changes to Ofgem, SEC Panel, SEC Parties and other interested parties on 11 September 2019. The consultation closed on 14 October 2019.
- 10.2 A total of twelve responses to the consultation were received from the DCC, a consumer group, a consumer price switching website and energy suppliers. There was unanimous support for the majority of the proposals. For the proposal on the provision of an interoperable checker service there was strong support from the majority of the respondents. Views from respondents, including the consumer representative group

¹ <https://www.ofgem.gov.uk/licences-codes-and-standards>

² <https://smartenergycodecompany.co.uk/>

were mostly positive, for example that there is a strong consumer demand for provision of an interoperability checker service.

- 10.3 Some changes to the legal drafting have been made to reflect points raised in the consultation and discussions have been held with some stakeholders on specific points. The consultation response is available on the Smart Energy Code website.

11. Guidance

- 11.1 The Government does not intend to publish guidance in respect of the modifications set out here. The Smart Energy Code Administrator and Secretariat (SECAS) has obligations to provide advice and support to SEC Parties. The DCC also publishes information about charging and engages its users regularly on these matters.

12. Impact

- 12.1 An updated Cost Benefit Analysis for smart metering was published in September 2019. It estimated the costs and benefits associated with the GB roll-out of smart meters and identified a substantial net benefit of £6 billion for the period to 2034 for the programme.³ These modifications will assist in ensuring that these net benefits are secured.
- 12.2 The assessment published in September 2019 which also sets out the effect that the smart meter roll-out will have on the costs of business is available at:

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

13. Regulating small business

- 13.1 These modifications to the Smart Energy Code support energy suppliers' management of the rollout of smart meters.
- 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 is minimised and that the proportionality of changes is reviewed, on a regular basis.
- 13.3 In designing smart metering regulations, the Government has consulted affected parties, including small businesses, to ensure that a broad range of stakeholders' views are considered and proportionality maintained

14. Monitoring & review

- 14.1 The Government's Monitoring and Evaluation Strategy ensures that the smart meter roll-out 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 Anna Soo at the Department for Business, Energy and Industry Strategy, telephone: 0300 068 6500 or email: anna.soo@beis.gov.uk can be contacted with any queries regarding the instrument.

³ Central projections, 2011 prices, discounted to 2019.

- 15.2 Duncan Stone, Deputy Director, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Duncan at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.