

**EXPLANATORY MEMORANDUM TO MODIFICATIONS TO THE STANDARD
CONDITIONS OF ELECTRICITY AND GAS SUPPLY LICENCES, THE
STANDARD CONDITIONS OF ELECTRICITY DISTRIBUTION LICENCES, THE
STANDARD CONDITIONS OF GAS TRANSPORTERS LICENCES, THE SMART
METER COMMUNICATION LICENCES, AND THE SMART ENERGY CODE**

SMART METERS

No. 4 of 2020

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 Government's policy for the rollout and operation of smart meters in Great Britain. They modify the conditions of gas and electricity supply licences, smart meter communication licences, gas transporter licences, electricity distribution licences and the Smart Energy Code (SEC).

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.

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 under the Gas Act 1986 and the Electricity Act 1989 and related industry codes for specified purposes related to the rollout of smart meters in Great

Britain. 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. The modifications in this instrument further develop that framework.

7. Policy background

What is being done and why?

- 7.1 Smart meters are a vital upgrade to our national energy infrastructure and underpin the cost-effective delivery of the Government's commitment to reduce greenhouse gas emissions to net zero by 2050. They are a critical tool in modernising the way we all use energy and support the transformation of the retail energy market, helping the system to work better for energy consumers. As of 30 June 2020, there were 21.5 million smart and advanced meters in homes and small businesses across Great Britain.¹
- 7.2 Both the smart metering communication licences (under the Gas Act 1986 and Electricity Act 1989) have been granted to Smart DCC Limited ("the DCC"). The DCC provides the core data and communications services that underpin the national operation of smart metering in Britain. The SEC 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, electricity and gas suppliers, network operators and other users of the smart metering system.
- 7.3 The instrument being laid before Parliament makes changes to various energy licences and the SEC for three different smart metering related purposes. The first set of the changes ("**Coordinated consumer engagement**") are aimed at further strengthening consumer engagement approaches over the next phase of the rollout of smart meters; the second set of changes ("**Clarifications in support of the post 2020 rollout framework**") are a number of technical clarifications in support of the next rollout phase; and the third ("**Plans to govern DCC initiatives**") makes changes to allow the Secretary of State to require the DCC to produce plans for use with its service users regarding how DCC will deliver certain projects, such as significant service re-procurements.

Coordinated consumer engagement

- 7.4 Whilst energy suppliers are responsible for contacting their customers and arranging smart meter installations, in 2012 the Government concluded that this should be supported by a centralised programme of consumer engagement activity.² Large energy suppliers are therefore required under licence to establish and maintain a Central Delivery Body, known as Smart Energy GB, and are responsible for ensuring that the organisation meets its objectives.
- 7.5 In June 2020, the existing 'all reasonable steps' obligation on energy suppliers to install smart meters was extended from the end of 2020 to 30 June 2021, after which a new four-year policy framework applies.³ Alongside this, Government confirmed that Smart Energy GB would continue as the organisation responsible for leading the

¹ See: <https://www.gov.uk/government/statistics/smart-meters-in-great-britain-quarterly-update-june-2020>

² See: <https://www.gov.uk/government/consultations/smart-meter-consumer-engagement-strategy>

³ See: <https://www.gov.uk/government/consultations/smart-meter-policy-framework-post-2020>

coordinated consumer engagement activities necessary to achieve market-wide rollout and consulted on proposals to update the organisation's objectives and governance. This instrument introduces these amendments, which will enable Smart Energy GB to continue supporting energy suppliers and assisting consumers in the next phase of the smart meter rollout.

- 7.6 In particular, the instrument modifies Smart Energy GB's objectives to support a clearer focus on driving uptake and overcoming barriers to acceptance, alongside encouraging consumers to use their smart meters to manage their energy use more efficiently and effectively. It also introduces a new objective to enable Smart Energy GB to facilitate coordination between energy suppliers in relation to their smart metering consumer engagement activities (where appropriate).
- 7.7 The instrument introduces a revised set of governance arrangements for Smart Energy GB which will empower the organisation's Non-Executive Board, whilst ensuring that energy suppliers retain appropriate control. This includes rebalancing the Board, reducing its overall size, and restructuring its membership. It will also require that Smart Energy GB's Board be responsible for establishing and maintaining a Performance Management Framework, supported by two Advisory Groups.
- 7.8 Finally, the instrument will lower the threshold by which energy suppliers fund the proportion of capital costs of Smart Energy GB which relate to its activities in support of domestic consumers from 250,000 to 150,000 domestic electricity or gas (or both) customer accounts. These new arrangements will be introduced via a new standard condition of the electricity and gas supply licences, to come into force on 30 June 2021, with 31 December 2021 as the deadline by which the full transition must be completed. A consequential change to support these arrangements is also being made to the Smart Meter Communications licences.

Clarifications in support of the Post 2020 Rollout Framework

- 7.9 The instrument makes consequential changes in light of the new rollout framework referred to in paragraph 7.5. These changes include amendments to energy suppliers' licence conditions and the SEC to account for SMETS1⁴ meters installed after the SMETS1 end-date under the new framework and amendments to energy network operators' licence conditions relating to provision of information to the Secretary of State. The instrument also makes a clarificatory change to electricity suppliers' licence conditions regarding the Standalone Auxiliary Proportional Controller provisions which were confirmed in June 2020.⁵

Plans to govern DCC initiatives

- 7.10 This instrument modifies the standard conditions of the smart meter communication licences to enable the Secretary of State to require the DCC to produce plans for use with its service users that can be used to drive and govern the delivery of certain projects, such as significant service re-procurements.

⁴ SMETS1 meters are first generation Smart Meters.

⁵ See: <https://smartenergycodecompany.co.uk/latest-news/beis-consultation-response-government-response-to-6-april-2020-consultation-and-outstanding-matters-from-14-january-2020-consultation/>

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 standard conditions of electricity and gas supply licences, gas transporter licences, electricity distribution licences, the smart meter communication licences or the SEC. A consolidated version of all of the relevant licence conditions will be available on the Office of Gas and Electricity Market's (Ofgem) website⁶ once these modifications come into force, and a consolidated version of the SEC will similarly be available on the SEC website⁷.

10. Consultation outcome

- 10.1 BEIS consulted on the proposed modifications with Ofgem, the SEC Panel, SEC Parties (who include all affected gas and electricity licence holders) and other interested parties with consultation documents published on 18 June 2020,⁸ 17 September 2020,⁹ and 23 October 2020.¹⁰ The consultations closed on 13 August 2020, 19 October 2020 and 9 November 2020, respectively. The Government responses to the consultations are available at the links provided below:
- June 2020 consultation: <https://www.gov.uk/government/consultations/smart-meter-coordinated-consumer-engagement>
 - September 2020 and October 2020 consultation conclusions.¹¹

June 2020 Consultation Outcome

- 10.2 Twenty-five responses were received to the June 2020 consultation on coordinated consumer engagement from a variety of stakeholders, including energy suppliers, trade associations, businesses in the supply chain, consumer groups and individuals.
- 10.3 There was clear support for the proposals to update Smart Energy GB's objectives with a significant majority of consultees agreeing or agreeing with caveats. Respondents agreed that in light of high levels of consumer awareness, it is appropriate for Smart Energy GB to increasingly shift towards creating demand for smart metering, assisting vulnerable audiences and supporting the full range of behaviour change enabled by smart metering to maximise the realisation of benefits to

⁶ See: <https://www.ofgem.gov.uk/licences-codes-and-standards>

⁷ See: <https://smartenergycodecompany.co.uk/>

⁸ See: <https://www.gov.uk/government/consultations/smart-meter-coordinated-consumer-engagement>

⁹ See: <https://smartenergycodecompany.co.uk/latest-news/beis-consultation-on-consequential-changes-following-confirmation-of-the-new-post-2020-policy-framework/>

¹⁰ See: <https://smartenergycodecompany.co.uk/latest-news/beis-consultation-on-a-proposed-additional-dcc-licence-condition-relating-to-plans-for-network-evolution/>

¹¹ This can be seen at: https://smartenergycodecompany.co.uk/latest_news/ from 23 November 2020.

consumers. The Government response therefore confirms the consultation proposals to update Smart Energy GB's objectives, as set out in energy supply licences.

- 10.4 The majority of consultees supported the proposed changes to Smart Energy GB's governance. Whilst broadly agreeing with the proposals, several respondents highlighted the importance of energy suppliers continuing to provide expert insight to inform Smart Energy GB's activity. In addition, several respondents also suggested opportunities to strengthen the consultation proposals. The Government response confirms updates to Smart Energy GB's governance, subject to a number of minor changes to further increase transparency (requiring publication of Board meeting records), secure an appropriate balance of skills on the Board (granting Citizens Advice observer status), and ensure energy suppliers retain appropriate control over the organisation (requiring the Chair(s) of the Advisory Groups to be Board Directors representing the interest of energy suppliers), in light of their wider responsibilities.
- 10.5 The proposal to lower the threshold by which large energy suppliers fund Smart Energy GB's domestic capital costs received widespread support with a significant majority of those who responded agreeing or agreeing with caveats. Respondents noted that the change was proportionate and created a more level playing field between energy suppliers, reducing the potential for market distortions. It was also suggested by a few respondents that the threshold be removed entirely. However, we consider that it remains appropriate to retain a threshold to ensure new and recent market entrants are protected, supporting competition in the energy market. The Government response confirms the consultation proposal noting that this aligns with the thresholds of other relevant energy policies.
- 10.6 There was broad support to set 30 June 2021 as the date on which the new objectives and governance arrangements come into force, with the transition completed by the end of 2021. However, several respondents expressed a preference to introduce the arrangements earlier in line with the new post-2020 regulatory framework coming into force. Government considers that this would not provide sufficient time and places pressure on the completion of necessary work in a fully collaborative and considered manner. The Government response confirms the consultation proposals, which provide for a timely and effective transition. It also encourages Smart Energy GB to consider how any earlier planned activities could align with the new objectives.

September 2020 consultation outcome

- 10.7 Seventeen responses were received to the September 2020 consultation from a range of parties, including energy suppliers, energy network operators, Meter Asset Providers and a trade association.
- 10.8 A significant majority of respondents supported the proposal to account for SMETS1 meters installed after the SMETS1 end date in licence conditions. There was widespread agreement amongst respondents that this would help avoid the cost and consumer inconvenience of these meters being replaced before the end of their operating lives.
- 10.9 However, a majority of energy suppliers and Meter Asset Providers did not agree with retaining the approach whereby SMETS1 meters installed after the SMETS1 end-date do not count towards the current 'all reasonable steps' obligation or the New and

Replacement Obligation (NRO)¹² on the grounds that in certain instances it may not be possible to install second generation (SMETS2) smart meters. The Government intends to retain the current approach as it supports its policy objective of driving energy suppliers to complete the transition to SMETS2 smart meters.

- 10.10 There was clear support from respondents to the proposed amendments to energy network operators' licence conditions, which would enable the Secretary of State to request information from them about smart metering throughout the post-2020 framework period.
- 10.11 The consultation considered whether further amendments to licence conditions were necessary following the extension of the current 'all reasonable steps' framework to the end of June 2021.¹³ While it proposed that such amendments were not necessary, a majority of respondents disagreed and considered that a further amendment to energy supply licence conditions was also required. Respondents felt that the impact of COVID-19 meant energy suppliers would not be able to comply with their current obligation to only supply electricity or gas to any domestic or designated premises¹⁴ through a Current Transformer meter or Large Gas meter (which is also an advanced meter) after 31 December 2020. In response, the Government proposes to amend this date, from 31 December 2020 to 30 June 2021, in line with the extension of the current 'all reasonable steps' framework.
- 10.12 A significant majority of respondents agreed to the proposed clarificatory change to electricity suppliers' licence conditions regarding the Standalone Auxiliary Proportional Controller provisions.

October 2020 consultation outcome

- 10.13 Twelve responses were received to the October 2020 consultation from a variety of industry participants, including energy suppliers, the DCC, a distribution company and other organisations involved in energy metering. All respondents supported the proposed new licence condition, with some also making suggestions that the condition should be broadened out to capture other DCC projects that might arise in the future or to require the plan to include specific matters, such as requirements for wider consultation with stakeholders.
- 10.14 The Government response welcomes the industry support for the measure. Government considers that the proposed measure already contains sufficient flexibility to ensure that specific matters such as on stakeholder consultation on particular deliverables can be required within the plans, and Government intends to commission any plans in this manner. The licence condition also already requires relevant stakeholders to be consulted in the preparation of any plan under it and they will therefore have a further opportunity to influence the content of any plan. Government does not consider it necessary at this stage to expand the provisions to cover additional DCC projects that might arise in the future, but will monitor the

¹² The new and replacement obligation requires energy suppliers to take 'all reasonable steps' to install a smart meter where a meter is replaced or a new connection is required.

¹³ The extension reflects the unprecedented impact of COVID-19 on the rollout and amendments to energy supply licence conditions to give effect to this extension were made in September 2020.

¹⁴ Non-domestic premises which are within scope of the smart meter rollout.

development of any such new projects and consider who is best placed to govern their plans once any such projects arise.

11. Guidance

- 11.1 The Government does not intend to publish guidance in respect of the modifications made by this instrument. The Smart Energy Code Administrator and Secretariat (SECAS) has obligations to provide advice and support to SEC Parties.

12. Impact

- 12.1 An updated and comprehensive Cost Benefit Analysis for smart metering was published in September 2019. It estimated the costs and benefits associated with the GB rollout of smart meters and identified a substantial net benefit of £6 billion for the period to 2034 for the programme.¹⁵ The modifications made by this instrument 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 rollout 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 The modifications outlined 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 rollout is 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 Charles Millman at the Department for Business, Energy and Industry Strategy, telephone: 020 7215 5403 or email: charles.millman@beis.gov.uk can be contacted with any queries regarding the instrument.
- 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 Central projections, 2011 prices, discounted to 2019.

- 15.3 The Lords Parliamentary Under Secretary of State, Minister for Climate Change and Corporate Responsibility at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.