

# **EXPLANATORY MEMORANDUM TO MODIFICATIONS TO THE STANDARD CONDITIONS OF ELECTRICITY AND GAS SUPPLY LICENCES**

## **SMART METERS**

**No. 1 of 2022**

### **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 The instrument modifies the standard conditions of gas and electricity supply licences. These modifications further develop the regulatory framework to support Government's policy for the rollout and operation of smart meters in Great Britain.

### **3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None: these are licence modifications under section 88 of the Energy Act 2008 and not a statutory instrument.

### **4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is Great Britain.  
4.2 The territorial application of this instrument 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 31 December 2021, there were 27.8 million smart and advanced meters in homes and small businesses across Great Britain.<sup>1</sup>

- 7.2 This instrument makes changes to gas and electricity supply licences for two different smart metering-related purposes. The first set of changes (“**Targets Framework Churn Adjustment**”) amends the formula used to derive energy suppliers’ annual smart meter installation requirements in Year 2 of the targets framework to mitigate the impact of smart meter customers switching energy supplier in Year 1 of the targets framework. This is intended to ensure that targets are fairer for suppliers and that suppliers are not penalised as a result of losing more smart meter customers than they gain through customer switching. The second set of changes (“**Non -Domestic Smart Meter Consumer Data Offer**”) entitles non-domestic energy customers with smart meters (e.g., businesses and public sector sites) to greater access to their smart meter energy consumption data from their energy supplier.

#### *Targets Framework Churn Adjustment*

- 7.3 The Government has committed to ensuring that households and small businesses in Great Britain can benefit from smart meters as soon as possible. To meet this ambition and drive completion of the rollout, the Government confirmed that a new four-year Framework would set energy suppliers annual, individual targets on a trajectory to 100% smart meter coverage, subject to annual tolerance levels based on the formula introduced. In June 2021, the Government confirmed the annual installation requirements for the first two years of the Framework.<sup>2</sup>
- 7.4 In the June 2021 response, the Government also committed to consult on proposals for a modification in the calculation of Year 2 installation requirements to mitigate the impact of smart meter customers switching their energy supplier (“smart churn”) during Year 1 of the Framework. In committing to consult on proposals for an adjustment, the Government accepted that the current methodology for calculating minimum installation requirements, by not mitigating the impact of smart churn, may potentially result in penalisation of energy suppliers that are furthest ahead in their smart meter roll out, as they are more likely to lose smart customers and gain traditional meter customers. Therefore, this instrument sets out amendments to the relevant licence conditions to apply an adjustment to the formula used to derive the targets for Year 2 of the Targets Framework, which begins on 1 January 2023. The adjustment will mitigate the impact of smart meter customers switching supplier, ensuring that installation requirements remain fair and appropriate across industry.

#### *Non-Domestic Smart Meter Consumer Data Offer*

- 7.5 Currently, unlike for domestic households, energy suppliers are not obligated to provide businesses and public sector smart meter customers with a default way of accessing or engaging with their energy consumption data; they are only required to provide “timely” access to data upon request. Evidence (as summarised within the consultation)<sup>3</sup> suggests that the current policy is not realising benefits for non-

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<sup>1</sup> See: <https://www.gov.uk/government/statistics/smart-meters-in-great-britain-quarterly-update-december-2021>

<sup>2</sup> [Smart meter policy framework post 2020: minimum annual targets and reporting thresholds for energy suppliers – government response](#)

<sup>3</sup> <https://www.gov.uk/government/consultations/maximising-non-domestic-smart-meter-consumer-benefits-improving-the-data-offer-and-enabling-innovation>

domestic consumers at the scale anticipated. Therefore, the instrument makes amendments to energy supply licence conditions that establish a baseline non-domestic smart meter consumer data offer consisting of:

- **From 1 December 2022: An on-request data offer.** This will enable non-domestic smart meter customers and their nominated third parties to request free access to (up to) 12 months of their historic smart meter energy use data from their energy supplier. Suppliers must respond within a time limit (10 working days), either granting access or outlining any further steps required.
- **From 1 December 2022: Awareness raising requirements.** Suppliers must regularly raise customer awareness of the routes by which they can access their smart meter data for free.
- **From 1 October 2024: A default data offer.** This will require energy suppliers to provide or make available free and regular user-accessible energy use information to smaller non-domestic customers (based on their half-hourly/hourly smart meter data) to help them make informed choices about their energy consumption.

## 8. European Union Withdrawal and Future Relationship

- 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. A consolidated version of the standard licence condition will be available on the Office of Gas and Electricity Market's (Ofgem's) website<sup>4</sup> once these modifications come into force.

## 10. Consultation outcome

### *Targets Framework Churn Adjustment*

- 10.1 Between 25 November 2021 and 20 January 2022, the Government consulted on proposals to implement a “churn” adjustment into the formula used to derive suppliers’ annual installation targets and associated tolerance levels in the licence conditions.<sup>5</sup> There were 14 responses to the consultation from a variety of stakeholders including large and small suppliers, domestic and non-domestic suppliers and also trade bodies. The feedback to proposals were positive overall, with 57% of respondents agreeing an adjustment was needed. However, some respondents raised concerns of potential unintended consequences and perverse incentives as a result of the methodology proposed to implement the adjustment. These concerns have been addressed, and a revised methodology to implement the churn adjustment is confirmed in the Government response<sup>6</sup>). The Government response, published 19<sup>th</sup> May), confirms plans for amendments to the formula used to derive supplier minimum installation requirements in the second year of the new Framework only. This will mitigate the impact of smart meter customers switching supplier, whilst ensuring the methodology used to implement the adjustment does not lead to unintended consequences. The Government will consider whether any churn

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<sup>4</sup> See: <https://www.ofgem.gov.uk/licences-codes-and-standards>

<sup>5</sup> [Smart meter Targets Framework: churn adjustment - consultation](#)

<sup>6</sup> <https://www.gov.uk/government/consultations/smart-meter-targets-framework-churn-adjustment>

adjustment is required in the third and fourth rollout years as part of a mid-point review of the Targets Framework that will take place in 2023.

#### *Non-Domestic Smart Meter Consumer Data Offer*

- 10.2 Between 5th July 2021 and 24th September 2021, the Government consulted on proposals to establish a baseline data offer for non-domestic smart meter customers via energy supply licence conditions. The consultation received 33 responses from a variety of stakeholders ranging from large and small energy suppliers, trade associations, consumer groups, data collectors and technology innovators. Overall, feedback was supportive, and the majority (81%) of stakeholders agreed with the underpinning policy rationale and proposals. However, stakeholders also flagged some challenges in relation to timeframes and scope, which have been addressed in the final proposals. In particular, the Government response<sup>7</sup> confirms plans to phase the policy into effect over a more gradual timeline and reduces the scope of the “default data offer” to smaller non-domestic organisations.

### **11. Guidance**

- 11.1 Regarding the Targets Framework Churn Adjustment, the Government does not intend to publish any guidance in respect of the modifications made by this instrument, beyond the explanation of the licence changes included within the Government response.
- 11.2 Regarding the Non-Domestic Smart Meter Consumer Data Offer, some guidance for industry (primarily energy suppliers) to support them with the implementation of the proposals has been published alongside the Government response.

### **12. Impact**

- 12.1 An Impact Assessment for the Targets Framework Churn Adjustment has been published alongside the Government response on the gov.uk website<sup>8</sup>. Amending the smart meter installation target calculation in Year 2 leads to a reduction in overall installation requirements across the market in the second year of the Targets Framework. As our modelling factors in the potential impact of the policy in slowing rollout, the option is linked to a negative Net Present Value (NPV) due to changes in the impacts related to the foregone rollout. The policy is nevertheless considered justified on the basis of minimising the potentially adverse impact of smart meter customer switching for some suppliers, and thereby ensuring the robustness of the Targets Framework. This policy is time limited and has a low overall impact with Total Net Present Social Value of -£11.1m and net annual cost to business of -£0.2m in Year 2 of the Target Framework. The overall NPV of the Targets Framework was £1,306m as detailed in the Smart meter policy framework post 2020 Impact Assessment<sup>9</sup>.

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<sup>7</sup> <https://www.gov.uk/government/consultations/maximising-non-domestic-smart-meter-consumer-benefits-improving-the-data-offer-and-enabling-innovation>

<sup>8</sup> <https://www.gov.uk/government/consultations/smart-meter-targets-framework-churn-adjustment>

<sup>9</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/991994/Impact\\_Assessment.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/991994/Impact_Assessment.pdf)

- 12.2 An Impact Assessment for the non-domestic smart meter consumer data offer is published alongside the Government response<sup>10</sup> on the legislation gov.uk website. Overall, the Impact Assessment shows that the benefits of the policy measures significantly outweigh costs; the NPV is £1.2bn with a Benefit Cost Ratio of 9.5.

### **13. Regulating small business**

- 13.1 The licence condition changes relating to the Targets Framework Churn Adjustment apply to activities that are undertaken by small businesses. As with the changes relating to the non-domestic smart meter data offer, small businesses are affected as both energy consumers and energy suppliers.
- 13.2 The impact on small business consumers of the Targets Framework Churn adjustment is slightly negative as the policy reduces the benefits to consumers by reducing the aggregate ambition of the rollout in Year 2 of the Targets Framework. Small and micro businesses that want a smart meter in order to experience the benefits are still able to request one and will be unlikely to be materially affected by the policy. Those businesses which are affected would only feel a very minor impact. Generally speaking, the policy reduces the costs to energy suppliers by reducing the overall number of smart meter installations required across the market in rollout Year 2 (2023). While this generally has a positive impact on small and micro suppliers, as they are typically less advanced in their smart meter rollout than the market average, they also represent a very small proportion of the rollout, so the impact on rollout as a whole is negligible. Given the limited and proportionate impact of the amendments on small businesses, no mitigating approach specific to this category is needed.
- 13.3 The supply licence condition changes regarding the non-domestic smart meter data offer apply to activities that are undertaken by small businesses, both in terms of them being beneficiaries of the policy (as consumers with smart meters) and in terms of small energy suppliers needing to meet the requirements.
- 13.4 Consideration has been given to how the policy will impact small businesses (employing up to 50 people). In particular, using available data, the Impact Assessment sets out why the benefits of the policy to small business consumers with smart meters (as a result of energy savings) significantly outweigh costs, even when accounting for energy suppliers passing costs through to tariffs.
- 13.5 In addition, adjustments to the policy have been made to minimise the impact of the requirements on small businesses. As a result of the policy being phased into effect over time, smaller energy suppliers will have sufficient time to build plans for their data offer into their strategies and spread out any costs accordingly. Furthermore, sufficient flexibility has been built into the policy so that suppliers may not need to build entirely new systems or technologies to comply. For example, they could adapt existing systems, procure third party solutions or find cost-effective means for compliance in the shorter-term (e.g., through email or billing mechanisms) while they invest in longer-term solutions.

### **14. Monitoring & review**

- 14.1 In relation to the Targets Framework churn adjustment, the adjustment to the formula used to set supplier smart meter installation requirements will be applied for Year 2 of

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<sup>10</sup> <https://www.gov.uk/government/consultations/maximising-non-domestic-smart-meter-consumer-benefits-improving-the-data-offer-and-enabling-innovation>

the Targets Framework only. The Government will consider whether any churn adjustment is appropriate for Year 3 and Year 4 of the Framework, and, if so, what level of adjustment is required, as part of the mid-point review of the Targets Framework that will take place in 2023.

- 14.2 The approach to monitoring of the supply licence changes regarding the non-domestic smart meter consumer data offer is set out in the Impact Assessment. A Post-Implementation Review (PIR) of these policy changes will also be conducted as part of the Programme's ongoing benefits monitoring and evaluation activities. The PIR will be published within five years of policy implementation, alongside other monitoring and evaluation work for the Programme.
- 14.3 The instrument does not include a statutory review clause as it is not secondary legislation within the meaning of section 32(6) of the Small Business, Enterprise and Employment Act 2015.

## **15. Contact**

- 15.1 Charles Millman at the Department for Business, Energy and Industrial Strategy, telephone: 020 7215 5403 or email: [charles.millman@beis.gov.uk](mailto:charles.millman@beis.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Oliver Sinclair, Deputy Director and Head of Smart Metering Policy and Governance at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 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.