

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

**(SMART METERS No. 3 of 2018)**

**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 aim 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"), conditions of the smart meter communication licences ("the DCC Licence") granted to Smart DCC Ltd ("DCC"), and sections of the Smart Energy Code ("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.

***Other matters of interest to the House of Commons***

- 3.2. None.

**4. Legislative Context**

- 4.1. Section 88 of the Energy Act 2008 gives the Secretary of State the power to modify certain licences and industry codes for specified purposes in relation to smart meters. These modifications fall within the scope of this power and are changes to energy supply licence conditions, the DCC Licence and the SEC required to facilitate the operation of smart meters.
- 4.2. 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.

**5. Extent and Territorial Application**

- 5.1. These modifications extend and apply to Great Britain.

## **6. European Convention on Human Rights**

- 6.1. As these modifications are not subject to the affirmative resolution procedure and do not amend primary legislation, no statement is required.

## **7. Policy background**

### ***What is being done and why***

- 7.1. A number of energy suppliers have been installing first-generation (SMETS1) smart meters for their customers. Like second-generation SMETS2 meters, SMETS1 meters provide consumers with the benefits of accurate bills and near real-time energy consumption information. However, SMETS1 meters currently operate via data and communications systems put in place by individual energy suppliers, as opposed to a single data and communications infrastructure which is easily accessible to all energy suppliers. As such, SMETS1 meters installed by one energy supplier are not always compatible with another energy supplier's systems, and may lose smart functionality when a consumer switches supplier.
- 7.2. The Government's long-standing policy for resolving this issue is for all significant populations of SMETS1 meters to eventually be operated via the national data and communications provider, the DCC. The Government recently consulted on the business case for enrolling certain cohorts of SMETS1 meters in the DCC and will conclude on this in due course, with a consultation on enrolling residual SMETS1 meter cohorts to follow.
- 7.3. These modifications to the smart metering regulatory framework are required to enable the provision of a SMETS1 service by the DCC. Subject to the Secretary of State's decision as to whether the DCC should be required to offer a SMETS1 service and, if so, in respect of which meter cohorts, any DCC-enrolled SMETS1 meters would be subject to the requirements and governance specified in the SEC. Should the Secretary of State determine that the DCC is not required to provide a SMETS1 service in respect of any meter cohorts, these modifications adapting the regulatory framework for the purposes of SMETS1 meters would be removed at the next available opportunity.
- 7.4. These modifications seek to align the regulatory framework for SMETS1 meters with that for SMETS2 meters wherever possible. This primarily involves expanding definitions within the SEC to ensure that pre-existing rights and obligations are capable of applying in respect of enrolled SMETS1 smart metering systems. We are additionally making a number of changes in relation to DCC services, smart metering system requirements and security processes that are needed to adapt existing regulatory provisions to the differences between SMETS1 and SMETS2 meters and systems. In the case of security, these changes principally involve extending existing requirements and governance processes to apply to SMETS1 devices; and transposing a number of security obligations from the energy supply licences into the SEC as part of ensuring they continue to apply in respect of enrolled devices.
- 7.5. These modifications also implement effective testing requirements for SMETS1 meters, and provide for the scope, development and eventual application of a

new Transition and Migration Approach Document (“TMAD”), which will set out the detailed processes, pre-conditions, rules and requirements surrounding the migration of meters into the DCC’s systems.

- 7.6. The expiry dates for a number of transitional provisions of the SEC and DCC Licence are similarly extended by these modifications. This enables them to be used to support SMETS1 enrolment, and the smart metering programme more generally, in the run-up to completion of the smart meter rollout at the end of 2020. In particular, this includes the power of the Secretary of State to designate and re-designate SEC Subsidiary Documents, and to designate the date from which SEC Sections, Schedules and Subsidiary Documents are to be effective.

### ***Consolidation***

- 7.7. The Government does not intend to consolidate energy supply licence conditions, the DCC Licence or the SEC. A consolidated version of the SEC will be available on the SEC website<sup>1</sup> once these modifications come into force. Consolidated versions of the energy supply licences and the DCC Licence will be available on Ofgem’s website<sup>2</sup> once these modifications come into force.

## **8. Consultation outcome**

- 8.1. In accordance with section 89 of the Energy Act 2008, BEIS has consulted with Ofgem, the SEC Panel, SEC Parties and other interested parties. The consultation ran from 27 March to 26 April 2018. These modifications need to be made promptly to provide certainty to the DCC and industry on the regulatory requirements that will apply in relation to a DCC SMETS1 Service, subject to the Secretary of State’s decision as to whether the DCC should be required to offer such a service, and in respect of which meter cohorts.
- 8.2. 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.
- 8.3. A total of 12 responses to the consultation were received from a range of stakeholders, including energy suppliers, the DCC, the SEC Panel and Citizens Advice. The proposed modifications were broadly supported by the respondents, and changes to the legal drafting have been made in a number of areas to address specific points raised during the consultation. In particular, we have constrained the scope of the TMAD such that it will not be an enduring document and removed a provision that would have prevented certain testing decisions from being referred to the SEC Panel in the event of a dispute.

## **9. Guidance**

- 9.1. This Explanatory Memorandum, the consultation document, the associated Government response and supporting documents can be found at:  
<https://smartenergycodecompany.co.uk/latest-news/government-response-to-the-march-2018-consultation-on-regulatory-changes-to-enable-provision-of-a-smets1-service-by-the-dcc>

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<sup>1</sup> <https://smartenergycodecompany.co.uk/the-smart-energy-code-2/>

<sup>2</sup> <https://www.ofgem.gov.uk/licences-codes-and-standards>

- 9.2. The Government does not intend to publish guidance in respect of these modifications. The SEC 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.

## **10. Impact**

- 10.1. An updated Cost Benefit Analysis for smart metering was published in November 2016. It estimated the costs and benefits associated with the GB rollout of smart meters and identified a substantial net benefit of £5.7 billion for the period to 2030 from the programme<sup>3</sup>. The estimated overall direct impact on businesses of the rollout of smart meters is an equivalent annual net cost of £36 million. These modifications will assist in ensuring that these net benefits are secured, and the Government has committed to publishing an updated Cost Benefit Analysis in 2019.
- 10.2. The impact on the public sector is nil.
- 10.3. The assessment published in November 2016 of the effect that the smart meter rollout 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>

## **11. Regulating small business**

- 11.1. These modifications support energy suppliers' management of the rollout of smart meters.
- 11.2. 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.
- 11.3. In designing smart metering regulations, the Government 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 maintain proportionality.

## **12. Monitoring and review**

- 12.1. 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.

## **13. Contact**

- 13.1. Please contact Richard Jones at the Department for Business, Energy and Industrial Strategy (tel: 0300 068 8067 or email: [Richard.Jones@beis.gov.uk](mailto:Richard.Jones@beis.gov.uk)) with any queries relating to these modifications.

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<sup>3</sup> Central projections, 2011 prices, discounted to 2016.