

EXPLANATORY MEMORANDUM TO

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

SMART METERS No.4 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 roll-out 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") and parts 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.

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 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 this 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 support the installation 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 aim 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 have a functionality that complies with 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 In this context, the Government's aim is to drive energy suppliers to make the transition to SMETS2 meters and ensure interoperability for consumers who have SMETS1 meters. These modifications deliver each of these objectives.

SMETS1 end-date

- 7.5 The Government's role is to protect the interests of consumers, who are at the heart of the smart meter roll-out, as we seek to deliver the programme benefits and a positive consumer experience of smart metering. It has been our long-standing position that transitioning to the exclusive installation of SMETS2 meters as soon as possible will help achieve this aim; over time, we have considered our minded-to position on the SMETS1 end date in recognition of impediments outside of energy suppliers' direct control. We wish to minimise the risk of a hiatus in delivery as far as possible, but equally, given our long-standing position, we must balance this against avoiding unfairly prejudicing those energy suppliers that have accordingly made investment decisions and transition plans.
- 7.6 Our intention is to ensure that those energy suppliers accounting for the majority of SMETS1 meter deployments have a reasonable window to manage their transition to SMETS2 meters in the absence of industry-wide impediments (that is, external factors that would prevent any energy supplier from transitioning). We also recognise that

most energy suppliers have made less progress towards transitioning to SMETS2 meters for prepayment customers. For prepayment customers, who are more likely to be vulnerable, the consequences of immature services could more directly affect their consumer experience than for credit customers.

- 7.7 Having considered views expressed on these matters, the Government has confirmed the final SMETS1 credit end date as 5 December 2018. In addition, the Government intends to create and set a later SMETS1 end date for prepayment meters of 15 March 2019, which these modifications to the SEC enable us to do.

Maximising interoperability for SMETS1 meters

- 7.8 Our 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 would provide a number of additional benefits, including reduction of stranding risk for existing SMETS1 assets and efficiencies from rationalising smart metering interfaces and processes within energy supplier businesses.
- 7.9 Enrolment of SMETS1 meters with the DCC is currently voluntary. While market information suggests that there are commercial and economic incentives on energy suppliers which would encourage them to enrol SMETS1 meters in the DCC, the voluntary nature of SMETS1 enrolment presents a risk if the DCC solution is not used in a timely manner. For example, this could delay the point at which consumers receive interoperable SMETS1 service which could undermine the delivery of the programme's benefits.
- 7.10 Having considered representations on this matter the Government intends to introduce a requirement for energy suppliers to take all reasonable steps to enrol their 'eligible' SMETS1 meters¹ 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). As a backstop, any SMETS1 meter not enrolled in the DCC would need to be replaced with a SMETS2 meter by the end of 2020. Once a SMETS1 meter has been enrolled in the DCC it may not be withdrawn and operated outside the DCC.
- 7.11 We have notified the draft legal text for this particular proposal to the European Commission under the Technical Standards and Regulations Directive (2015/1535/EU).

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

¹ We propose that enrolment eligibility will be determined in the SEC with reference to the point in time at which SMETS1 device models are added to the Eligible Product Combinations list. This is a list of device model combinations in relation to which DCC has proven through testing its ability to process service requests. We will consult on any necessary amendments to the SEC in due course.

on Ofgem's website, and a consolidated version of the SEC will be available on the SECAS² website, once these modifications come into force.

10. Consultation outcome

SMETS1 end-date

- 10.1 Between 3 July and 14 August 2018, BEIS consulted on proposals including for a final SMETS1 credit end-date and to modify the SEC to allow for the creation and setting of a later SMETS1 prepayment end-date. This consultation sought views from a range of stakeholders including energy suppliers, network operators, meter asset providers, consumer groups and others as appropriate, in accordance with section 89 of the Energy Act 2008. The consultation document was published on the SECAS website.³
- 10.2 A total of 48 responses to the consultation were received. A majority of respondents agreed with the proposed date of 5 December 2018 for the final SMETS1 credit end-date, noting that it would offer a more realistic opportunity and additional time for energy suppliers to plan a smoother transition to smart meters. Those that disagreed typically highlighted the risk of a hiatus in the installation of new smart metering systems and expressed concern regarding industry readiness to transition to SMETS2 at volume. The Government's assessment, building on evidence received in response to the consultation, is that there are no industry-wide impediments to transitioning to SMETS2 meters. At the end of September 2018, over 47,000 SMETS2 meters have been installed and we continue to see an increase in the rate of installations.
- 10.3 The proposal to create a later SMETS1 end-date of 15 March 2019 for prepayment meter replacements was broadly welcomed by respondents. Respondents noted this additional time would enable SMETS2 prepayment functionality to be tested and fully piloted; and that this would enable industry to gain confidence in operations to ensure consumer protections and the ongoing availability of remote payment options to this key sector of the domestic market. Those disagreeing set out why, in line with views expressed on the SMETS1 credit end-date, this new end-date provided insufficient time to head off a hiatus in service delivery. The Government's view is that with the SMETS1 credit end-date fixed as 5 December 2018, allocating additional time to prepayment will enable energy suppliers to focus on delivering a transition to a SMETS2 prepayment service. A number of respondents expressed a concern that the modifications to the SEC as drafted would prevent energy suppliers from moving credit customers to smart prepayment services between 5 December 2018 and 15 March 2019. In light of those consultation responses, we have amended the drafting so that it captures circumstances where consumers proactively choose prepayment tariffs, or these are needed to be taken on for debt recovery purposes.

Maximising interoperability for SMETS1 meters

- 10.4 Between 17 April and 24 May 2018, BEIS consulted on these proposed modifications with a range of stakeholders including energy suppliers, network operators, existing SMETS1 service providers, meter asset providers, the DCC, Ofgem and others as

² SECAS is the administrator of the Smart Energy Code.

³ See: <https://smartenergycodecompany.co.uk/latest-news/beis-consultation-on-extended-of-smets1-end-date/>

appropriate, in accordance with section 89 of the Energy Act 2008. The consultation document was published on gov.uk.⁴

- 10.5 A total of 51 responses to the consultation were received. While some respondents contended that there are already sufficient commercial and reputational incentives on energy suppliers to enrol SMETS1 meters in the DCC, the majority of respondents agreed with the proposed requirement on energy suppliers to enrol eligible SMETS1 meters in the DCC within a specified timeframe. A majority of respondents agreed with the proposal that any unenrolled SMETS1 meter should be replaced with a SMETS2 meter by the end of 2020, although some respondents felt this approach could lead to increased costs and operational impacts, or considered that it is not justified if the meter is operating in smart mode.
- 10.6 The consultation proposed that energy suppliers should be required to take all reasonable steps to enrol eligible SMETS1 meters with the DCC within 6 months of the point at which those meters can be enrolled (or from the point an unenrolled eligible meter is gained on change of supplier). The majority of respondents did not agree with this proposal, with some providing evidence to demonstrate that the proposed timeframe would be overly challenging given the need for testing their systems and piloting before enrolment can commence at scale. The Government agrees that enrolment needs to be carried out carefully so that the consumer experience is protected, particularly as the SMETS1 meters to be enrolled are live in consumers' homes and businesses. Having considered evidence provided in consultation responses, we have amended the drafting to introduce a 12 month enrolment window (or such longer period as the Secretary of State may direct).
- 10.7 In light of consultation responses, we also recognise that there may be practical reasons in a limited number of cases why an unenrolled SMETS1 meter cannot be replaced by a SMETS2 meter by end-2020, for example where the energy supplier is unable to access the consumer's premises. We have therefore amended the drafting such that the requirement on energy suppliers will be to take 'all reasonable steps' to replace any unenrolled SMETS1 meter with a SMETS2 meter by the end of 2020, rather than an absolute obligation to do so.

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 programme,⁵ yielding £1.5 of savings 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

⁴ See: <https://www.gov.uk/government/consultations/maximising-interoperability-for-first-generation-smets1-smart-meters>

⁵ Central projections, 2011 prices, discounted to 2016.

£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>

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 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.⁶

14. Monitoring & review

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

15. Contact

- 15.1 Sophie Boldon (tel: 020 7215 3504; email: sophie.boldon@beis.gov.uk) or John Christopher (tel: 0300 068 5235; email john.christopher@beis.gov.uk) at the Department for Business, Energy and Industrial Strategy can be contacted with any queries regarding the instrument.
- 15.2 Judicaelle Hammond 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.

⁶ See: <https://www.gov.uk/government/publications/smart-meter-roll-out-gb-cost-benefit-analysis>