

**EXPLANATORY MEMORANDUM TO**  
**MODIFICATIONS TO THE SMART ENERGY CODE**  
**(SMART METERS No 5. of 2017)**

**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 Section A of the Smart Energy Code.

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

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

3.1 None: these are 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. The modifications being proposed fall within the scope of these powers and are changes to the Smart Energy Code 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 industry 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 The roll-out of smart meters in Great Britain is happening in two stages: the Foundation Stage - which began in 2011; followed by the Main Installation Stage - which commenced in November 2016, and will run until the completion of the roll-

out at the end of 2020. 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”. Energy suppliers installing these meters currently use their own communications systems to provide smart services. These meters provide the same benefits as the second version of smart meters, known as SMETS2 meters, in terms of accurate bills and near real-time energy consumption information. However, in addition, SMETS2 meters will operate using the services provided by the smart meter communication licensee (“DCC”), which provide interoperability for customers allowing them to reliably maintain their smart service when they switch energy supplier.

- 7.2 The Government has set an end date for the installation of SMETS1 meters, after which they would no longer count towards discharging an energy supplier’s roll-out duty in the conditions of its electricity and gas supply licences. This is currently expected to be 13 July 2018. The SMETS1 end date has been important in driving energy suppliers to make the transition to SMETS2 meters. However, even for those energy suppliers who have made every effort to plan their transition carefully the end-date, as currently formulated, causes operational and commercial risks. If its transition to SMETS2 meters fell behind plan then an energy supplier could have insufficient SMETS1 meters leading to under-occupied meter installers and customers who could not be served. This risk could be managed by maintaining an additional stock of SMETS1 meters but there would then be the risk that these could not be deployed after the end date and would be wasted.
- 7.3 Having considered representations on this matter the Secretary of State is therefore making modifications to the Smart Energy Code. These are designed to help protect consumers and mitigate energy suppliers’ operational and commercial risks by providing energy suppliers who meet a set of strict eligibility criteria with some flexibility to deploy limited numbers of SMETS1 meters after the end-date, whilst maintaining the overall focus on making the transition to the SMETS2 standard. These modifications therefore make provision for the Secretary of State to grant an energy supplier, on their application, a derogation from the SMETS1 end date, if they meet certain eligibility criteria and subject to specified conditions.

#### *Consolidation*

- 7.4 The Government does not intend to consolidate the Smart Energy Code. A consolidated version will be available on Ofgem’s website<sup>1</sup> once these modifications come into force.

## **8. Consultation outcome**

- 8.1 The consultation document was published on gov.uk and BEIS consulted with a range of stakeholders including energy suppliers, network operators, meter asset providers, DCC, Ofgem and others as appropriate, in accordance with section 89 of the Energy Act 2008, on these modifications between 9 October and 10 November 2017.
- 8.2 A total of 43 responses to the consultation were received. The majority agreed that a change in approach was appropriate and with the Government’s rationale for this. The majority also agreed with the Government’s proposal to have a time-limited (6 months) derogation from the SMETS1 end date with a cap on the number of SMETS1

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

meters that could be installed during the derogation period. The Government agrees with the point made by some consultation respondents that the eligibility criteria should be amended to provide energy suppliers who have recently begun a SMETS1 project with the opportunity to apply for a derogation. In line with consultation responses, the Government Response to the consultation therefore signals the Government's intention to take forward its 'minded to' approach as set out in the consultation and also amends the eligibility criteria to include energy suppliers who have not yet started to roll out SMETS1 meters but expect to do so before the SMETS1 end date.

## **9. Guidance**

- 9.1 The Government will publish, alongside the Government Response to the consultation, a statement of requirements which includes guidance and application forms for energy suppliers considering applying for a derogation from the SMETS1 end date.

## **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 roll-out of smart meters and identified a substantial net benefit of £5.7 billion for the period to 2030 from the programme<sup>2</sup>, 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 £36 million.
- 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 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>

## **11. Regulating small business**

- 11.1 These modifications to the Smart Energy Code provide energy suppliers with additional flexibility for managing their rollout of smart meters. A cap based on forecast figures would extend eligibility for a derogation to small suppliers who have yet to start rolling out SMETS1 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 has engaged 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.

## **12. Monitoring and review**

- 12.1 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

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<sup>2</sup> Central projections, 2011 prices, discounted to 2016

evaluation process. Ofgem will be responsible for monitoring compliance with licence conditions and taking enforcement action where necessary.

### **13. Contact**

- 13.1 Please contact Nicola Barber at the Department for Business, Energy and Industrial Strategy (tel: 0300 068 6147 or email: [nicola.barber@beis.gov.uk](mailto:nicola.barber@beis.gov.uk)) with any queries relating to these modifications.