



Smart Meters Act 2018

2018 CHAPTER 14

An Act to extend the period for the Secretary of State to exercise powers relating to smart metering; to provide for a special administration regime for a smart meter communication licensee; and to make provision enabling half-hourly electricity imbalances to be calculated using information obtained from smart meters.
[23rd May 2018]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications etc. (not altering text)

- C1 Act modified (E.W.) (1.8.2020) by [The Smart Meter Communication Licensee Administration \(England and Wales\) Rules 2020 \(S.I. 2020/629\)](#), [rule 3\(2\)\(3\)](#) (with rule 4(1))

Powers

1 Smart meters: extension of time for exercise of powers

- (1) In section 88 of the Energy Act 2008 (power to amend licence conditions etc: smart meters), in subsection (5), for “1 November 2018” substitute “1 November 2023”.
- (2) In the Electricity Act 1989—
 - (a) in section 7A(10D) (expiry of provisions requiring proposed transfer of smart meter communication licence to be notified to Secretary of State), for “1 November 2018” substitute “1 November 2023”;
 - (b) in section 56FB(2) (time limit for exercise of power to provide for activities connected with smart meters to be licensable activities), for “1 November 2018” substitute “1 November 2023”.
- (3) In the Gas Act 1986—

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- (a) in section 8AA(10D) (expiry of provisions requiring proposed transfer of smart meter communication licence to be notified to Secretary of State), for “1 November 2018” substitute “ 1 November 2023 ”;
 - (b) in section 41HB(2) (time limit for exercise of power to provide for activities connected with smart meters to be licensable activities), for “1 November 2018” substitute “ 1 November 2023 ”.
- (4) In consequence of the amendments made by subsections (1), (2)(b) and (3)(b), in section 73 of the Energy Act 2011, omit subsections (5), (7) and (8).

Special administration regime

2 Smart meter communication licensee administration orders

- (1) A smart meter communication licensee administration order (referred to in the smcl administration provisions as an “smcl administration order”) is an order which—
 - (a) is made by the court in relation to a smart meter communication licensee; and
 - (b) directs that, while the order is in force, the affairs, business and property of the company are to be managed by a person appointed by the court.
- (2) The person appointed in relation to a company for the purposes of an smcl administration order is the smart meter communication administrator of the company.
- (3) The smart meter communication administrator of a company must manage its affairs, business and property, and exercise and perform all the powers and duties of a smart meter communication administrator, so as to achieve the objective set out in section 3.
- (4) In relation to an smcl administration order applying to a non-GB company, references in this section to the affairs, business and property of the company are references only to its affairs and business so far as carried on in Great Britain and to its property in Great Britain.
- (5) In the smcl administration provisions—
 - “smart meter communication licensee” means the company which is the holder of the relevant licences; and
 - “relevant licences” means—
 - (a) the licence granted under section 7AB of the Gas Act 1986 to provide a smart meter communication service, and
 - (b) the licence granted under section 6 of the Electricity Act 1989 to provide a smart meter communication service.

3 Objective of a smart meter communication licensee administration

- (1) The objective of a smart meter communication licensee administration is to secure—
 - (a) that the licensee's functions under the relevant licences are performed efficiently and economically, and
 - (b) that it becomes unnecessary, by one or both of the following means, for the smcl administration order to remain in force for the purpose mentioned in paragraph (a).
- (2) Those means are—

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- (a) the rescue as a going concern of the company subject to the smcl administration order; and
 - (b) transfers falling within subsection (3).
- (3) A transfer falls within this subsection if it is a transfer as a going concern—
 - (a) to another company, or
 - (b) as respects different parts of the undertaking of the company subject to the smcl administration order, to two or more different companies,of so much of that undertaking as it is appropriate to transfer for the purpose of achieving the objective of the smart meter communication licensee administration.
- (4) The means by which transfers falling within subsection (3) may be effected include, in particular—
 - (a) a transfer of the undertaking of the company subject to the smcl administration order, or of a part of its undertaking, to a wholly-owned subsidiary of that company; and
 - (b) a transfer to a company of securities of a wholly-owned subsidiary to which there has been a transfer falling within paragraph (a).
- (5) The objective of a smart meter communication licensee administration may be achieved by a transfer falling within subsection (3) to the extent only that—
 - (a) the rescue as a going concern of the company subject to the smcl administration order is not reasonably practicable or is not reasonably practicable without such a transfer;
 - (b) the rescue of that company as a going concern will not achieve that objective or will not do so without such a transfer;
 - (c) such a transfer would produce a result for the company's creditors as a whole that is better than the result that would be produced without it; or
 - (d) such a transfer would, without prejudicing the interests of those creditors as a whole, produce a result for the company's members as a whole that is better than the result that would be produced without it.
- (6) The Secretary of State may by regulations made by statutory instrument—
 - (a) specify activities carried out by a smart meter communication licensee under the relevant licences to which a smart meter communication administrator must give priority in—
 - (i) managing the affairs, business and property of the licensee, and
 - (ii) otherwise exercising and performing the powers and duties of a smart meter communication administrator; and
 - (b) make provision about how the smart meter communication administrator is to give priority to specified activities.
- (7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

4 Application of certain provisions of the Energy Act 2004

- (1) Sections 156 to 167 of, and Schedules 20 and 21 to, the Energy Act 2004 (special administration regime for energy licensees) apply in relation to an smcl administration order as they apply in relation to an energy administration order within the meaning given by section 154(1) of that Act, but with the modifications set out in subsections (2) to (4).

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- (2) In the application of those provisions generally—
- (a) for “energy administration”, in each place where it occurs, substitute “ smart meter communication licensee administration ”;
 - (b) for “energy administrator”, in each place where it occurs, substitute “ smart meter communication administrator ”;
 - (c) for “a protected energy company”, in each place where it occurs, substitute “ a smart meter communication licensee ”.
- (3) In the application of Schedule 20—
- (a) in paragraph 32(1)(d), for the words from “ “energy administration application”” to “Energy Act 2004” substitute “ “smart meter communication licensee administration application” means an application to the court for a smart meter communication licensee administration order under Chapter 3 of Part 3 of the Energy Act 2004, as applied by section 4 of the Smart Meters Act 2018 ”;
 - (b) in paragraph 32(1)(e), for “section 155 of the Energy Act 2004” substitute “ section 3 of the Smart Meters Act 2018 ”;
 - (c) in paragraph 36, for “section 154(4) of this Act” substitute “ section 2(4) of the Smart Meters Act 2018 ”;
 - (d) in paragraph 43, after “the Energy Act 2004” insert “ and section 4 of the Smart Meters Act 2018 ”;
 - (e) in paragraph 44(5), after “the Energy Act 2004” insert “ and section 4 of the Smart Meters Act 2018 ”;
 - (f) in paragraph 45, after “section 157(1)(e) of this Act” insert “ as applied by section 4 of the Smart Meters Act 2018 ”;
 - (g) omit paragraph 46 (but see section 9 of this Act);
 - (h) in paragraph 47, after “Part 1 of this Schedule” insert “ and section 4 of the Smart Meters Act 2018 ”.
- (4) In the application of Schedule 21—
- (a) for “old energy company”, in each place where it occurs, substitute “ old licensee ”;
 - (b) for “new energy company”, in each place where it occurs, substitute “ new licensee ”;
 - (c) in paragraph 1(b), for “section 155(3)” substitute “ section 3(3) of the Smart Meters Act 2018 ”;
 - (d) in paragraph 12, for “section 155” substitute “ section 3 of the Smart Meters Act 2018 ”.
- (5) Sections 171 and 196 of the Energy Act 2004 (interpretation) apply for the purposes of the application by subsection (1) of the provisions mentioned in that subsection, but with the modifications set out in subsection (6).
- (6) In the application of section 171(1)—
- (a) insert, at the appropriate places, the following definitions—
 - ““objective of the smart meter communication licensee administration” is to be construed in accordance with section 3 of the Smart Meters Act 2018;”;
 - ““smart meter communication licensee” has the meaning given by section 2(5) of the Smart Meters Act 2018;”;

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““smart meter communication licensee administration order” has the meaning given by section 2(1) of the Smart Meters Act 2018;”;

““smart meter communication licensee administration rules” means rules made under section 411 of the 1986 Act by virtue of section 159(3) of this Act, for the purpose of giving effect to this Chapter as applied by section 4 of the Smart Meters Act 2018;”;

- (b) for the definition of “energy administrator” substitute—

““smart meter communication administrator” has the meaning given in section 10 of the Smart Meters Act 2018”;

- (c) for the definition of “relevant licence” substitute—

““relevant licence” means either of the relevant licences within the meaning given by section 2(5) of the Smart Meters Act 2018.”

5 Conduct of administration, transfer schemes, etc

In section 159(3) of the Energy Act 2004 (conduct of administration, transfer schemes, etc under Chapter 3 of Part 3 of that Act), after “2011” insert “ or section 4 of the Smart Meters Act 2018 ”.

6 Modifications of particular or standard conditions

- (1) Where the Secretary of State considers it appropriate to do so in connection with the provision made by the smcl administration provisions, the Secretary of State may make—
 - (a) modifications of the conditions of a gas or electricity licence held by a particular person;
 - (b) modifications of the standard conditions of such licences of any type.
- (2) The power to make modifications under this section includes power to make incidental, consequential or transitional modifications.
- (3) Before making a modification under this section, the Secretary of State must consult—
 - (a) the holder of any licence being modified; and
 - (b) such other persons as the Secretary of State considers appropriate.
- (4) Subsection (3) may be satisfied by consultation that took place wholly or partly before the commencement of this section.
- (5) The Secretary of State must publish every modification made under this section.
- (6) The publication must be in such manner as the Secretary of State considers appropriate.
- (7) A modification under subsection (1)(a) of part of a standard condition of a licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part 1 of the Gas Act 1986 or Part 1 of the Electricity Act 1989.
- (8) Where the Secretary of State makes modifications under subsection (1)(b) of the standard conditions of licences of any type, the Gas and Electricity Markets Authority must—