



Energy Act 2008

2008 CHAPTER 32

PART 5

MISCELLANEOUS

Smart meters

88 Power to amend licence conditions etc: smart meters

- (1) The Secretary of State may modify—
- (a) a condition of a particular licence under section [F¹6(1)(b), (c)] or (d) of the Electricity Act 1989 (c. 29) ([F²transmission,] distribution and supply licences);
 - (b) the standard conditions incorporated in licences under those provisions by virtue of section 8A of that Act;
 - (c) a condition of a particular licence under section 7 or 7A of the Gas Act 1986 (c. 44) (transporter, supply and shipping licences);
 - (d) the standard conditions incorporated in licences under those provisions by virtue of section 8 of that Act;
 - [F³(da) a condition of a particular licence under section 6(1)(f) of the Electricity Act 1989, or under section 7AB of the Gas Act 1986 (smart meter communication licences);]
 - (e) a document maintained in accordance with the conditions of licences under section 6(1) of the Electricity Act 1989 or section 7 [F⁴, 7A or 7AB] of the Gas Act 1986, or an agreement that gives effect to a document so maintained.
- (2) The Secretary of State may exercise the power in subsection (1) for the purpose only of—
- (a) requiring the holder of a licence to provide or install, or facilitate the provision, installation or operation of, meters of a particular kind, or
 - (b) requiring the holder of a licence to make arrangements related to the matters mentioned in paragraph (a).

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- (3) Modifications made by virtue of subsection (1) may include—
- (a) technical specifications for meters (including specifications in respect of matters relevant to the ability to obtain remote access to meters);
 - (b) a prohibition on the supply of gas or electricity through a meter other than a meter which complies with a technical specification under paragraph (a);
 - (c) provision about the installation of meters which comply with a technical specification under paragraph (a) (including provision about the replacement of existing meters);
 - (d) provision about electricity generated by a customer;
 - (e) provision about the circumstances in which any pre-payment facilities of a meter may be utilised;
 - (f) provision about the use of a meter remotely to disconnect a customer's premises;
 - (g) provision about the protection of consumers;
 - (h) provision about access to, and the use of, an electricity distribution system or part of an electricity distribution system for communication in connection with a meter;
 - (i) provision about access to information from meters (including provision enabling a customer, or a person acting on a customer's behalf, to have access to information about the customer's consumption of gas or electricity);
 - (j) provision about communication of information by or to meters (including provision about its onward communication) and about the use of such information;
 - [^{F5}(ja) provision requiring the holder of a licence to supply information to the Secretary of State or the Authority (or both) so as to enable them to assess any matter relating to the provision, installation, or operation of meters;]
 - (k) provision requiring the holder of the licence to enter (or refrain from entering) into an agreement of a specified kind, or with a specified person;
 - (l) provision specifying, or enabling the determination of, a date from which a modification is to take effect.
- (4) The power conferred by subsection (1)—
- (a) may be exercised to make different provision in relation to [^{F6}different areas or] different classes of customer;
 - (b) may be exercised generally, only in relation to specified cases or subject to exceptions (including provision for a case to be excepted only so long as specified conditions are satisfied);
 - (c) may be exercised differently in different cases or circumstances;
 - (d) includes a power to make incidental, supplementary, consequential or transitional modifications.
- (5) The power conferred by subsection (1) may not be exercised after the end of [^{F7}1 November 2028].
- (6) Provision included in a licence by virtue of that power—
- (a) need not relate to the activities authorised by the licence;
 - (b) in the case of a licence under section 7[^{F8}, 7A or 7AB] of the Gas Act 1986 (c. 44), may do any of the things authorised by section 7B(5) of that Act (which apply to the Gas and Electricity Markets Authority's power with respect to licence conditions under section 7B(4)(a));

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- (c) in the case of a licence under section [F96(1)(b), (c)]^{F10}, (d) or (f)] of the Electricity Act 1989 (c. 29), may do any of the things authorised by section 7(2) to (4) of that Act (which apply to that Authority's power with respect to licence conditions under section 7(1)(a)).

- (7) In this section a reference to a meter includes a reference to a visual display unit, or any other device, associated with or ancillary to a meter.

Textual Amendments

- F1** Words in s. 88(1)(a) substituted (18.12.2011) by [Energy Act 2011 \(c. 16\), ss. 73\(2\)\(a\)](#), 121(3)
- F2** Word in s. 88(1)(a) inserted (18.12.2011) by [Energy Act 2011 \(c. 16\), ss. 73\(2\)\(b\)](#), 121(3)
- F3** S. 88(1)(da) inserted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, [33\(2\)\(a\)](#)
- F4** Words in s. 88(1)(e) substituted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, [33\(2\)\(b\)](#)
- F5** S. 88(3)(ja) inserted (18.12.2011) by [Energy Act 2011 \(c. 16\), ss. 73\(3\)](#), 121(3)
- F6** Words in s. 88(4)(a) inserted (18.12.2011) by [Energy Act 2011 \(c. 16\), ss. 73\(4\)](#), 121(3)
- F7** Words in s. 88(5) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\), ss. 215\(1\)](#), 334(2)(k)
- F8** Words in s. 88(6)(b) substituted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, [33\(3\)\(a\)](#)
- F9** Words in s. 88(6)(c) substituted (18.12.2011) by [Energy Act 2011 \(c. 16\), ss. 73\(6\)](#), 121(3)
- F10** Words in s. 88(6)(c) substituted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, [33\(3\)\(b\)](#)

89 Power to amend licence conditions etc: procedure

- (1) Before making a modification, the Secretary of State must consult—
- the holder of any licence being modified,
 - the Gas and Electricity Markets Authority, and
 - such other persons as the Secretary of State considers appropriate.
- (2) Subsection (1) may be satisfied by consultation before, as well as by consultation after, the passing of this Act.
- (3) Before making modifications, the Secretary of State must lay a draft of the modifications before Parliament.
- (4) If, within the 40-day period, either House of Parliament resolves not to approve the draft, the Secretary of State may not take any further steps in relation to the proposed modifications.
- (5) If no such resolution is made within that period, the Secretary of State may make the modifications in the form of the draft.
- (6) Subsection (4) does not prevent a new draft of proposed modifications being laid before Parliament.
- (7) The Secretary of State must publish details of any modifications as soon as reasonably practicable after they are made.
- (8) In this section “40-day period”, in relation to a draft of proposed modifications, means the period of 40 days beginning with the day on which the draft is laid before

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Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the 2 days on which it is laid).

- (9) For the purposes of calculating the 40-day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (10) In this section “modification” means a modification under section 88.

90 Smart meters: supplemental

- (1) A modification under section 88 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 (c. 44) or Part 1 of the Electricity Act 1989 (c. 29).
- (2) Where the Secretary of State makes modifications under section 88(1)(b) or (d) of the standard conditions of a licence of any type, the Gas and Electricity Markets Authority must—
- (a) make the same modification of those standard conditions for the purposes of their incorporation in licences of that type granted after that time, and
 - (b) publish the modification.
- (3) The Secretary of State may by order make such modifications of provision made by or under an Act or an Act of the Scottish Parliament (whenever passed or made) as the Secretary of State considers appropriate in consequence of provision made under section 88.

91 Licensing of activities relating to smart meters

Schedule 4 contains amendments to the Gas Act 1986 and the Electricity Act 1989.

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