



Smart Meters Act 2018

2018 CHAPTER 14

PROSPECTIVE

Half-hourly settlement of electricity imbalances

11 Modification of electricity codes etc: settlement using smart meter information

- (1) The Gas and Electricity Markets Authority (“the Authority”) may—
 - (a) modify a document maintained in accordance with an electricity licence, and
 - (b) modify an agreement that gives effect to such a document,if the condition in subsection (2) is satisfied.
- (2) The condition is that the Authority considers the modification necessary or desirable for the purposes of enabling or requiring half-hourly electricity imbalances to be calculated using information about customers' actual consumption of electricity on a half-hourly basis.
- (3) The power to make modifications under this section includes—
 - (a) power to make provision about the determination of amounts payable in connection with half-hourly electricity imbalances;
 - (b) power to remove or replace all of the provisions of a document or agreement;
 - (c) power to make different provision for different purposes;
 - (d) power to make incidental, supplementary, consequential or transitional modifications.
- (4) A modification may not be made under this section after the end of the period of 5 years beginning with the day on which this section comes into force.
- (5) In this section—

“balancing arrangements” means arrangements made by the transmission system operator for the purposes of balancing the national transmission system for Great Britain;

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“electricity licence” means a licence under section 6(1) of the Electricity Act 1989;

“half-hourly electricity imbalance” means the difference between the amount of electricity consumed by an electricity supplier's customers during a half-hour period and the amount of electricity purchased by the electricity supplier for delivery during that period, after taking into account any adjustments in connection with the supplier's participation in balancing arrangements;

“supply”, in relation to electricity, has the same meaning as in Part 1 of the Electricity Act 1989 (see section 4(4) of that Act);

“transmission system” has the same meaning as in Part 1 of the Electricity Act 1989 (see section 4(4) of that Act);

“transmission system operator” means the person operating the national transmission system for Great Britain.

12 Modification under section 11

- (1) Before making a modification under section 11, the Gas and Electricity Markets Authority (“the Authority”) must—
 - (a) publish a notice about the proposed modification,
 - (b) send a copy of the notice to the persons listed in subsection (2), and
 - (c) consider any representations made within the period specified in the notice about the proposed modification or the date from which it would take effect.
- (2) The persons mentioned in subsection (1)(b) are—
 - (a) each relevant licence holder,
 - (b) the Secretary of State,
 - (c) Citizens Advice,
 - (d) [^{F1}Consumer Scotland], and
 - (e) such other persons as the Authority considers appropriate.
- (3) The period specified under subsection (1)(c) must be a period of not less than 28 days beginning with the day on which the notice is published.
- (4) A notice under subsection (1) must—
 - (a) state that the Authority proposes to make a modification,
 - (b) set out the proposed modification and its effect,
 - (c) specify the date from which the Authority proposes that the modification will have effect, and
 - (d) state the reasons why the Authority proposes to make the modification.
- (5) If, after complying with subsections (1) to (4) in relation to a modification, the Authority decides to make a modification, it must publish a notice about the decision.
- (6) A notice under subsection (5) must—
 - (a) state that the Authority has decided to make the modification,
 - (b) set out the modification and its effect,
 - (c) specify the date from which the modification has effect,
 - (d) state how the Authority has taken account of any representations made in the period specified in the notice under subsection (1), and

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- (e) state the reason for any differences between the modification set out in the notice and the proposed modification.
- (7) A notice under this section about a modification or decision must be published in such manner as the Authority considers appropriate for bringing it to the attention of those likely to be affected by the making of the modification or decision.
- (8) Sections 3A to 3D of the Electricity Act 1989 (principal objective and general duties) apply in relation to the functions of the Authority under section 11 and this section with respect to modifications of documents maintained in accordance with electricity licences, and agreements giving effect to such documents, as they apply in relation to functions of the Authority under Part 1 of that Act.
- (9) For the purposes of subsections (1) to (10) of section 5A of the Utilities Act 2000 (duty of Authority to carry out impact assessment), a function exercisable by the Authority under section 11 is to be treated as if it were a function exercisable by it under or by virtue of Part 1 of the Electricity Act 1989.
- (10) The reference in subsection (9) to the functions of the Authority under section 11 includes a reference to the Authority's functions under subsections (1) to (10) of section 5A of the Utilities Act 2000 as applied by subsection (9).
- (11) In this section—
“electricity licence” has the meaning given in section 11;
“relevant licence holder” means, in relation to the modification of a document maintained under an electricity licence or an agreement that gives effect to such a document, the holder of a licence under which the document is maintained.

Textual Amendments

- F1** Words in s. 12(2)(d) substituted (13.1.2022) by [The Consumer Scotland Act 2020 \(Consequential Provisions and Modifications\) Order 2022 \(S.I. 2022/34\)](#), art. 1(1), [Sch. para. 9\(2\)](#) (with art. 5)

13 Date from which modifications of electricity licence conditions may have effect

- (1) The Electricity Act 1989 is amended in accordance with this section.
- (2) In section 11A(9) (modifications of electricity licence conditions not to have effect less than 56 days from publication of decision to modify), at the end insert “, except as provided in section 11AA ”.
- (3) After that section insert—

“11AA Modification of conditions under section 11A: early effective date

- (1) The date specified by virtue of section 11A(8) in relation to a modification under that section may be less than 56 days from the publication of the decision to proceed with the making of the modification if—
- (a) the Authority considers it necessary or expedient for the modification to have effect before the 56 days expire,
- (b) the purpose condition is satisfied,
- (c) the consultation condition is satisfied, and

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- (d) the time limit condition is satisfied.
- (2) The purpose condition is that the Authority considers the modification necessary or desirable for purposes described in section 11(2) of the Smart Meters Act 2018 (enabling or requiring half-hourly electricity imbalances to be calculated using information about customers' actual consumption of electricity on a half-hourly basis).
- (3) The consultation condition is that the notice under section 11A(2) relating to the modification—
 - (a) stated the date from which the Authority proposed that the modification should have effect,
 - (b) stated the Authority's reasons for proposing that the modification should have effect from a date less than 56 days from the publication of the decision to modify, and
 - (c) explained why, in the Authority's view, that would not have a material adverse effect on any licence holder.
- (4) The time limit condition is that the specified date mentioned in subsection (1) falls within the period of 5 years beginning on the day on which section 11 of the Smart Meters Act 2018 comes into force.”
- (4) In paragraph 2 of Schedule 5A (procedure for appeals under section 11C: suspension of decision), after sub-paragraph (1) insert—
 - “(1A) In the case of an appeal against a decision of the Authority which already has effect by virtue of section 11AA, the CMA may direct that the modification that is the subject of the decision—
 - (a) ceases to have effect entirely or to such extent as may be specified in the direction, and
 - (b) does not have effect, or does not have effect to the specified extent, pending the determination of the appeal.”

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