



# Energy Act 2023

## 2023 CHAPTER 52

### PART 6

#### GOVERNANCE OF GAS AND ELECTRICITY INDUSTRY CODES

PROSPECTIVE

#### *Licensing and selection of code manager*

#### **185 Licence under Gas Act 1986 for performance of code management function**

- (1) Part 1 of the Gas Act 1986 is amended as follows.
- (2) Section 5 (prohibition on unlicensed activities) is amended as follows.
- (3) After subsection (1)(d) insert “; or
  - (e) performs the function of code manager in relation to a designated gas licence document (see further subsections (11A) and (11B)).”.
- (4) After subsection (11) insert—
  - “(11A) A reference in this Part to a person (“P”) performing the function of code manager in relation to a designated gas licence document is a reference to making arrangements, with the persons to whom subsection (11B) applies, under which P is responsible for the governance of the document.
  - (11B) This subsection applies to the holder of a licence for the purposes of section 5 where a condition of the licence—
    - (a) requires the holder to comply with, or to enter into arrangements that conform with, the designated gas licence document in question, or
    - (b) imposes obligations on the holder that do not apply to the holder where the holder complies with that document.”
- (5) In subsection (12)—

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Cross Heading: Licensing and selection of code manager. (See end of Document for details)*

- (a) omit the “and” after the definition of “relevant information”;
  - (b) at the appropriate place insert—
    - ““designated gas licence document” means a document that is—
    - (a) maintained in accordance with the conditions of a licence for the purposes of section 5, and
    - (b) designated under section 182 of the Energy Act 2023;”.
- (6) After section 7AB insert—

**“7AC Licensing of a person performing code manager function**

- (1) The Authority may grant a licence (“a code manager licence”) authorising a person to perform the function of code manager in respect of a designated gas licence document.
  - (2) Where a designated gas licence document is also a designated electricity licence document, a person may not be granted a code manager licence in respect of the document unless the same person is at the same time granted a licence under section 6(1)(g) of the Electricity Act 1989.
  - (3) In this section—
    - “designated electricity licence document” has the same meaning as in section 4 of the Electricity Act 1989;
    - “designated gas licence document” has the same meaning as in section 5.”
- (7) Section 7B (licences: general) is amended as follows.
- (8) In subsection (5A)—
- (a) after “smart meter communication licence” (in the first place it occurs) insert “or in a code manager licence”;
  - (b) for “smart meter communication licence” (in the second place it occurs) substitute “a licence of the same type”.
- (9) In subsection (5B)—
- (a) for “Secretary of State or the Authority” substitute “relevant authority”;
  - (b) in paragraph (b)(ii), after “licence” insert “or (in the case of an application for a code manager licence) apply for a licence otherwise than as part of a competition”.
- (10) In subsection (5C), after “smart meter communication licence” insert “or in a code manager licence”.
- (11) In subsection (5D), for “the Secretary of State or the Authority” substitute “the relevant authority”.
- (12) In subsection (5E)—
- (a) in paragraph (a), for “Secretary of State or the Authority (as appropriate)” substitute “relevant authority”;
  - (b) in paragraph (b), for “Secretary of State or the Authority (as appropriate)” substitute “relevant authority”.
- (13) After subsection (5F) insert—

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“(5FA) In subsections (5B) to (5E), “the relevant authority” means—

- (a) in relation to a smart meter communication licence, the Secretary of State or the Authority;
- (b) in relation to a code manager licence, the Authority.”

(14) In section 8AA (transfer of licences), after subsection (11A) insert—

“(11B) Where the holder of a code manager licence is also the holder of a licence under section 6(1)(g) of the Electricity Act 1989, the code manager licence may not be transferred to a person unless the licence under section 6(1)(g) of that Act is transferred to the same person at the same time.”

#### Commencement Information

**II** S. 185 not in force at Royal Assent, see [s. 334\(1\)](#)

### **186 Licence under Electricity Act 1989 for performance of code management function**

(1) Part 1 of the Electricity Act 1989 is amended as follows.

(2) Section 4 (prohibition on unlicensed supply, etc) is amended as follows.

(3) In subsection (1)—

- (a) omit the “or” after paragraph (d);
- (b) after paragraph (e) insert “ or
- (f) performs the function of code manager in relation to a designated electricity licence document (see further subsections [\(3H\)](#) and [\(3I\)](#)),”.

(4) After subsection (3G) insert—

“(3H) A reference in this Part to a person (“P”) performing the function of code manager in relation to a designated electricity licence document is a reference to making arrangements, with the persons to whom subsection [\(3I\)](#) applies, under which P is responsible for the governance of the document.

(3I) This subsection applies to the holder of a licence for the purposes of section 4 where a condition of the licence requires the holder to comply with the designated electricity licence document in question.”

(5) In subsection (6), at the appropriate place insert—

““designated electricity licence document” means a document that is—

- (a) maintained in accordance with the conditions of a licence for the purposes of section 4, and
- (b) designated under [section 182](#) of the Energy Act 2023;”.

(6) Section 6 (licences authorising supply, etc) is amended as follows.

(7) In subsection (1)—

- (a) omit the “or” after paragraph (e);
- (b) after paragraph (f) insert “, or

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- (g) a licence authorising a person to perform the function of code manager in relation to a designated electricity licence document (“a code manager licence”).”
- (8) After subsection (2B) insert—
- “(2C) Where a designated electricity licence document is also a designated gas licence document, a person may not be granted a code manager licence in relation to the document unless the same person is at the same time granted a licence under section 7AC of the Gas Act 1986.”
- (9) For subsection (10) substitute—
- “(10) In this section—
- “designated electricity licence document” has the same meaning as in section 4;
- “designated gas licence document” has the same meaning as in section 5 of the Gas Act 1986;
- “premises” has the same meaning as in section 4.”
- (10) Section 7 (conditions of licences: general) is amended as follows.
- (11) In subsection (3B)—
- (a) after “smart meter communication licence” (in the first place it occurs) insert “or in a code manager licence”;
- (b) for “smart meter communication licence” (in the second place it occurs) substitute “a licence of the same type”.
- (12) In subsection (3C)—
- (a) for “Secretary of State or the Authority” substitute “relevant authority”;
- (b) in paragraph (b)(ii), after “licence” insert “or (in the case of an application for a code manager licence) apply for a licence otherwise than as part of a competition”.
- (13) In subsection (3D), after “smart meter communication licence” insert “or in a code manager licence”.
- (14) In subsection (3E), for “the Secretary of State or the Authority” substitute “the relevant authority”.
- (15) In subsection (3F)—
- (a) in paragraph (a), for “Secretary of State or the Authority (as appropriate)” substitute “relevant authority”;
- (b) in paragraph (b), for “Secretary of State or the Authority (as appropriate)” substitute “relevant authority”.
- (16) In subsection (3G)(a), after “licence” insert “or (as the case may be) code manager licence”.
- (17) After subsection (3G) insert—
- “(3GA) In subsections (3C) to (3F), “the relevant authority” means—
- (a) in relation to a smart meter communication licence, the Secretary of State or the Authority;
- (b) in relation to a code manager licence, the Authority.”

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(18) In section 7A (transfer of licences), after subsection (11A) insert—

“(11B) Where the holder of a code manager licence is also the holder of a licence under section 7AC of the Gas Act 1986, the code manager licence may not be transferred to a person unless the licence under section 7AC of that Act is transferred to the same person at the same time.”

#### Commencement Information

**I2** S. 186 not in force at Royal Assent, see [s. 334\(1\)](#)

### 187 Selection of code manager

- (1) The GEMA must determine whether the selection of the person who is to be the code manager in relation to a designated document is to be made—
  - (a) on a non-competitive basis, in accordance with regulations made by the Secretary of State under section [188](#), or
  - (b) on a competitive basis, in accordance with regulations made by the GEMA under section [189](#).
- (2) The Secretary of State may by regulations make—
  - (a) provision about the making of determinations under subsection (1) by the GEMA (which may include provision specifying criteria to be applied by the GEMA in making determinations);
  - (b) provision enabling the GEMA, in circumstances specified in the regulations, to change the basis on which the selection of a code manager is to be made.
- (3) The Secretary of State may by regulations—
  - (a) specify requirements to be met by or in relation to a person in order for the person to be selected as the code manager in relation to a designated document;
  - (b) specify persons, or persons of a particular description, who may or may not be selected to be a code manager in relation to a designated document.

#### Commencement Information

**I3** S. 187 not in force at Royal Assent, see [s. 334\(1\)](#)

### 188 Selection on a non-competitive basis

- (1) The Secretary of State may by regulations make provision about the selection by the GEMA, otherwise than on a competitive basis, of the person who is to be the code manager in relation to a designated document.
- (2) Regulations under this section may make provision by reference to a determination by the GEMA or to the opinion of the GEMA as to any matter.
- (3) Regulations under this section must make provision so as to ensure that a person (“P”) may not be selected to be the code manager in relation to a designated document unless the GEMA is satisfied that P would not, if selected, have a financial or other interest likely to prejudice the discharge by P of the functions of code manager.

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- (4) The provision that may be made by virtue of [subsection \(1\)](#) includes provision for the selection by the GEMA of a person (other than an individual) formed by the GEMA.

**Commencement Information**

**I4** S. 188 not in force at Royal Assent, see [s. 334\(1\)](#)

**189 Selection on a competitive basis**

- (1) The GEMA may by regulations make provision for a determination by the GEMA on a competitive basis of the person who is to be selected to be the code manager in relation to a designated document.
- (2) Regulations under this section may make provision about the procedure relating to the making of such a determination, which may include provision—
- (a) in prescribed cases, for the publication of a proposal to select a code manager in relation to a designated document;
  - (b) for the inclusion in such a proposal of an invitation to apply for selection;
  - (c) imposing conditions in relation to the making of applications (whether in pursuance of a proposal published as mentioned in [paragraph \(a\)](#) or otherwise);
  - (d) restricting the making of applications and imposing requirements as to the period within which they must be made;
  - (e) for regulating the manner in which applications are considered or determined;
  - (f) authorising or requiring the GEMA, when determining whom to select, to have regard to the person’s suitability for being selected.
- (3) Regulations under this section may make provision by reference to a determination by the GEMA or to the opinion of the GEMA as to any matter.
- (4) Regulations under this section must make provision so as to ensure that a person (“P”) may not be selected to be the code manager in relation to a designated document unless the GEMA is satisfied that P would not, if selected, have a financial or other interest likely to prejudice the discharge by P of the functions of code manager.
- (5) The approval of the Secretary of State is required for the making of regulations under this section.
- (6) In this section, “prescribed” means prescribed by or determined in accordance with regulations made by the GEMA.

**Commencement Information**

**I5** S. 189 not in force at Royal Assent, see [s. 334\(1\)](#)

**Status:**

This version of this cross heading contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Energy Act 2023, Cross Heading:  
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