

EXPLANATORY MEMORANDUM TO
THE CODE MANAGER SELECTION (COMPETITIVE) REGULATIONS 2025
2025 No. 658

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Gas and Electricity Markets Authority and is laid before Parliament by Command of His Majesty.

2. Declaration

- 2.1 The Right Hon Ed Miliband MP, Secretary of State for Energy Security and Net Zero at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Heather Stewart, Deputy Director for Industry Rules at the Gas and Electricity Markets Authority, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Joe Matthews at the Gas and Electricity Markets Authority can be contacted with any queries regarding the instrument. Email: industrycodes@ofgem.gov.uk

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 These Regulations are providing GEMA with the detailed powers needed in order to implement the reform of governance of the energy industry codes, specifically regarding the process for selecting a code manager on a competitive basis.
- 4.2 These Regulations complement the Code Manager Selection Regulations 2024, which contain provisions about the choice of selection route for code managers, and the process for non-competitive selection.
- 4.3 The Regulations empower GEMA to use a single-stage competitive process to select between two or more eligible candidates. The regulations make provision for GEMA to seek evidence from candidates, and score this evidence in order to determine a preferred candidate. The Regulations also make provision for GEMA to weight scores, and require minimum scores for certain evaluation criteria.

Where does the legislation extend to, and apply?

- 4.4 The extent of this instrument is England and Wales and Scotland.
- 4.5 The territorial application of this instrument is England and Wales and Scotland.

5. Policy Context

What is being done and why?

- 5.1 The Act established the legislative framework for reforming the governance of the gas and electricity codes – the detailed rules of the energy system. Part of this reform was

to establish a regulatory regime for a new role of “code manager” as a licensed body who will be responsible for the governance of one or more industry codes in the gas and electricity sectors. These Regulations are made in connection with the code manager selection process, specifically the competitive version of this process, which will be used where GEMA has identified two or more eligible candidates for a code manager role.

- 5.2 The regulations will ensure that competitive selection is available for four remaining code manager selection exercises due to take place as part of the energy code reform programme, and any future selection exercises outside of the scope of the reform programme.

What was the previous policy, how is this different?

- 5.3 The previous code governance arrangements were successful when dealing with an energy system that was more predictable, with incremental changes over time. The Code Governance Reform programme aims to create a code governance framework that is easier to understand, more agile and forward-looking to align with government priorities. The primary objective of the reform is to ensure that the energy codes keep pace with Net Zero and clean energy ambitions and deliver for consumers.
- 5.4 The reforms will see the responsibility for the energy codes moving from industry parties to code managers. Code managers will be directly accountable to Ofgem under the terms of their licence and will take on roles previously performed by code administrators and code panels. These regulations provide a framework for GEMA to select the most appropriate code managers where two or more eligible candidates have been identified, while ensuring the risks posed by potential conflicts of interest are mitigated.

6. Legislative and Legal Context

How has the law changed?

- 6.1 This is new legislation implementing reforms made by the Act. The Act set out measures for the reformed gas and electricity code governance framework and these Regulations implement elements of that framework in relation to the selection of code managers.

Why was this approach taken to change the law?

- 6.2 This is the approach set out in the Act to implement the powers granted to GEMA for selecting a code manager on a competitive basis.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 The competitive selection process included in the regulations was subject to public consultation, published November 2024. GEMA received 29 responses to the consultation, and a majority of respondents agreed with our proposals on the competitive selection of code managers.

- 7.2 The consultation documents, and GEMA’s decision can be found here:

Energy code reform: consultation on code manager selection | Ofgem
<https://www.ofgem.gov.uk/consultation/energy-code-reform-consultation-code-manager-selection>

8. Applicable Guidance

- 8.1 GEMA will publish guidance on the Ofgem website following the laying of these regulations. The publication date will be determined by the timing of future code manager selection exercises. This guidance will provide further details on the competitive selection process of code managers, its primary audience will be prospective candidates of the competitive process. It will provide further detail on how the regulations will be applied in practice, including the use of assessment criteria. For example, guidance will set out the relative importance of all the criteria.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because of the low level of impact on business and consumers.

Impact on businesses, charities and voluntary bodies

- 9.2 The impact to business due to this instrument is small and contained to a small proportion of the energy industry, including existing code administrators, code parties and some wider industry players. There will be no net loss or gain to business as associated costs and revenues from the activity of code panels and code administrators will transfer to new, licenced code managers.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 The legislation does not impact charities or voluntary bodies.
- 9.5 The impact on the public sector is negligible. The main impact will be borne by current code administrators whose businesses will need to adapt to the new requirements outlined in these regulations.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Ed Miliband, Secretary of State for the Department for Energy Security and Net Zero has made the following statement: “There is no expected significant annualised net impact on business (greater than +/-£10 million net annualised). There are no other factors that would make it particularly desirable to include a review clause”.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 None.

12. European Convention on Human Rights

- 12.1 The Secretary of State has made the following statement regarding Human Rights: “In my view the provisions of the Code Manager (Competitive) Selection Regulations 2025 are compatible with the Convention rights.”

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).