



Energy Act 2023

2023 CHAPTER 52

PART 6

GOVERNANCE OF GAS AND ELECTRICITY INDUSTRY CODES

Key definitions for Part 6

182 Designation of codes etc

- (1) In this Part, “designated document” means a document that—
 - (a) is maintained in accordance with the conditions of a relevant licence, and
 - (b) is designated for the purposes of this Part by notice given by the Secretary of State.
- (2) The designation of a document has effect from the time specified in the notice under subsection (1)(b).
- (3) A notice under subsection (1)(b) must be published in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the designation.
- (4) The Secretary of State may revoke the designation of a document under this section.
- (5) The Secretary of State may not designate a document, or revoke the designation of a document, except so as to give effect to a recommendation of the GEMA.
- (6) Before making a recommendation to the Secretary of State for the purposes of subsection (5), the GEMA must consult such persons as it considers appropriate.
- (7) Subsection (6) does not apply in relation to the designation of a document where, immediately before being designated, the document is (or is treated as) a qualifying document within the meaning of Schedule 12.

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183 Meaning of “code manager” and “code manager licence”

- (1) In this Part, “code manager”, in relation to a designated document, means the holder of a code manager licence in respect of the document.
- (2) In this Part, “code manager licence” means a licence under section 7AC of the Gas Act 1986 or section 6(1)(g) of the Electricity Act 1989.
- (3) See sections 185 and 186, which contain amendments to the Gas Act 1986 and the Electricity Act 1989 in relation to the licences mentioned in subsection (2).

184 Designation of central systems

- (1) In this Part, “designated central system” means a central system that is designated for the purposes of this Part by notice given by the Secretary of State.
- (2) “Central system” means an information technology system which has one or both of the following functions—
 - (a) to support the operation of the provisions of one or more designated documents;
 - (b) to process, transmit or store data in connection with the operation of the provisions of one or more designated documents.
- (3) The designation of a central system has effect from the time specified in the notice under subsection (1).
- (4) A notice under subsection (1) in relation to a central system must also specify the person (referred to in this Part as the “responsible body”) who is responsible, for the purposes of this Part, for operating or procuring the operation of the central system.
- (5) A notice under subsection (1) must be published in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the designation.
- (6) The Secretary of State may revoke the designation of a central system under this section.
- (7) The Secretary of State may not designate a central system, or revoke the designation of a central system, except so as to give effect to a recommendation of the GEMA.
- (8) Before making a recommendation to the Secretary of State for the purposes of subsection (7), the GEMA must consult such persons as it considers appropriate.
- (9) Subsection (8) does not apply in relation to the designation of a central system where—
 - (a) immediately before being designated, the central system is a qualifying central system within the meaning of Schedule 12, and
 - (b) the designation does not involve any change to the responsible body in relation to the central system.
- (10) The Secretary of State may by notice provide—
 - (a) that the person who is the responsible body in relation to a designated central system is to cease to be the responsible body in relation to that system, and
 - (b) that a person specified in a notice under this paragraph is instead to be the responsible body in relation to the designated central system.

- (11) The Secretary of State may not give a notice under subsection (10) except so as to give effect to a recommendation of the GEMA.

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)—
- (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;

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“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—
- “(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.”

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
- (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)—

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- (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.”
- (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.”

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.

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.
- (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.

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.

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Strategic direction statement for designated documents

190 Strategic direction statement

- (1) The GEMA must, each year, prepare and publish a statement setting out a strategic direction for designated documents.
- (2) A statement prepared and published under [subsection \(1\)](#) is referred to in this Part as a “strategic direction statement”.
- (3) A strategic direction statement must in particular—
 - (a) contain a strategic assessment of government policies, and of developments relating to the energy sector, that the GEMA considers will or may require the making of modifications to designated documents;
 - (b) cover such other matters relating to designated documents as the Secretary of State may specify in regulations.
- (4) In preparing a strategic direction statement, the GEMA must have regard to any advice given to it by the Independent System Operator and Planner so far as relevant to the matters referred to in [subsection \(3\)](#).
- (5) Before publishing a strategic direction statement in any year, the GEMA must—
 - (a) publish a notice containing a draft of the document,
 - (b) send a copy of the notice to the persons listed in [subsection \(6\)](#), and
 - (c) consider any representations about the draft made within the period specified in the notice.
- (6) The persons referred to in [subsection \(5\)\(b\)](#) are—
 - (a) the Secretary of State;
 - (b) the National Association of Citizens Advice Bureaux;
 - (c) the Scottish Association of Citizens Advice Bureaux;
 - (d) Consumer Scotland.
- (7) A notice under [subsection \(5\)](#) must be published by the GEMA in whatever way it considers appropriate for the purpose of bringing the matters contained in it to the attention of persons likely to be affected by them.

191 Transfer of functions under [section 190](#) to Independent System Operator and Planner

- (1) The Secretary of State may by regulations amend [section 190](#) so as to provide for functions under that section to be exercisable by the Independent System Operator and Planner (instead of by the GEMA).
- (2) Before making regulations under this section, the Secretary of State must consult—
 - (a) the GEMA,
 - (b) the Independent System Operator and Planner, and
 - (c) any other persons whose interests are likely to be affected by the proposal.
- (3) Regulations under this section—
 - (a) must repeal [section 190\(4\)](#);
 - (b) must add the GEMA to the list of persons in [section 190\(6\)](#);

- (c) may make such other amendments to [section 190](#) as the Secretary of State considers appropriate.

Modifications and directions

192 Modification of designated documents by GEMA

- (1) The GEMA may modify a designated document if any of [subsections \(2\) to \(6\)](#) applies.
- (2) This subsection applies where the GEMA considers that—
 - (a) the designated document needs to be modified as a matter of urgency,
 - (b) the making of the modification is likely to be delayed if done in accordance with the normal modification procedures for the document, and
 - (c) such a delay would have adverse effects on—
 - (i) consumers, or
 - (ii) any person with rights or obligations under the document, other than the GEMA.
- (3) This subsection applies where the GEMA considers that a financial or other interest of the code manager in respect of the matter to which the modification relates is likely to prejudice the making of the modification if done in accordance with the normal modification procedures for the document.
- (4) This subsection applies where the GEMA considers that—
 - (a) the modification is required for the purpose of implementing a strategic direction statement under [section 190](#), and
 - (b) the nature of the modification (for example, its complexity) is such that it needs to be made under this section rather than in accordance with the normal modification procedures for the designated document.
- (5) This subsection applies where the GEMA considers that the modification is required in connection with the incorporation of the whole or part of the provision made by the designated document into another document (whether or not a designated document).
- (6) This subsection applies where the GEMA considers that the modification is required in consequence of the exercise of any power conferred by [Schedule 12](#) (transitional provisions) in relation to a different document.
- (7) The Secretary of State may by regulations make—
 - (a) provision specifying requirements to be met in relation to the exercise of the power under [subsection \(1\)](#);
 - (b) provision supplementing [subsections \(2\) to \(6\)](#).
- (8) References in this section to the normal modification procedures for a designated document are to provision, relating to the procedure for modifying the document, that—
 - (a) is contained in the document, or
 - (b) applies pursuant to any condition of a licence in accordance with which the document is maintained.

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193 Modification under section 192

- (1) Before making a modification under section 192, the GEMA 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) the Secretary of State,
 - (b) the code manager in relation to the designated document to which the proposed modification relates, and
 - (c) such other persons as the GEMA considers appropriate.
- (3) A notice under subsection (1) must—
 - (a) state that the GEMA proposes to make a modification;
 - (b) set out the proposed modification and its effect;
 - (c) specify the date from which the GEMA proposes that the modification will have effect;
 - (d) state—
 - (i) why the GEMA is seeking to make the modification under section 192 (by reference to whichever of subsections (2) to (6) of section 192 applies), and
 - (ii) the reasons for the proposed modification.
- (4) If, within the period specified by virtue of subsection (1)(c), the Secretary of State directs the GEMA not to make the proposed modification, the GEMA must comply with the direction.
- (5) If, after complying with subsections (1) to (3) in relation to a proposed modification, the GEMA decides to make a modification, it must publish a notice about the decision.
- (6) A notice under subsection (5) must—
 - (a) state that the GEMA 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 GEMA has taken account of any representations made in the period specified in the notice under subsection (1);
 - (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 proposed modification or a decision must be published in such manner as the GEMA considers appropriate for bringing it to the attention of those likely to be affected by the making of the modification or decision.

194 Directions relating to designated central systems

- (1) The GEMA may give a direction to the responsible body in relation to a designated central system for the purpose of ensuring that the body—
 - (a) complies with its obligations under a relevant designated document, or

- (b) takes such steps as the GEMA considers may be necessary for the efficient operation or implementation of the provisions of a relevant designated document.
- (2) When determining whether to give a direction under this section, the GEMA must have regard to the ability of the responsible body to whom the direction would be given—
- (a) to recover any costs reasonably incurred by the body in complying with the direction, and
 - (b) to comply with the direction without contravening any obligations of the body under a relevant designated document or in relation to the operation of the designated central system.
- (3) A responsible body must comply with a direction given to it under this section.
- (4) In this section and section 195, “relevant designated document”, in relation to a designated central system, means a designated document in respect of which the central system has a function mentioned in section 184(2).

195 Directions under section 194

- (1) Before giving a direction under section 194, the GEMA must—
- (a) publish a notice about the proposed direction,
 - (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 direction or the date from which it would take effect.
- (2) The persons mentioned in subsection (1)(b) are—
- (a) the responsible body to whom the direction is proposed to be given, and
 - (b) the code manager in relation to the relevant designated document.
- (3) A notice under subsection (1) must—
- (a) state that the GEMA proposes to give a direction;
 - (b) set out the proposed direction and its effect;
 - (c) specify the date from which the GEMA proposes that the direction will have effect;
 - (d) state the reasons why the GEMA proposes to give the direction.
- (4) If, after complying with subsections (1) to (3) in relation to a direction, the GEMA decides to give a direction, it must publish a notice about the decision.
- (5) A notice under subsection (4) must—
- (a) state that the GEMA has decided to give the direction;
 - (b) set out the direction and its effect;
 - (c) specify the date from which the direction has effect;
 - (d) state how the GEMA has taken account of any representations made in the period specified in the notice under subsection (1);
 - (e) state the reason for any differences between the direction set out in the notice and the proposed direction.
- (6) A notice under this section about a proposed direction or a decision must be published in such manner as the GEMA considers appropriate for bringing it to the attention of those likely to be affected by the making of the direction or decision.

*General objectives and reports***196 Principal objective and general duties of Secretary of State and GEMA under Part 6**

Sections 4AA to 4B of the Gas Act 1986 and sections 3A to 3D of the Electricity Act 1989 (principal objective and general duties) apply in relation to the functions under this Part of the Secretary of State and of the GEMA as they apply in relation to functions of the Secretary of State and of the GEMA under Part 1 of that Act.

197 GEMA’s annual report to cover matters relating to designated documents

- (1) Section 5 of the Utilities Act 2000 (annual and other reports of the GEMA) is amended as follows.
- (2) After subsection (3) insert—
 - “(3A) The annual report for each year must also include an overview of—
 - (a) developments relating to documents designated for the purposes of [Part 6](#) of the Energy Act 2023 (governance of gas and electricity industry codes);
 - (b) decisions made by the Authority during the year in relation to such documents, including details of any modifications made under [section 192](#) of the Energy Act 2023.”

*Other***198 Regulations under Part 6**

- (1) Regulations under this Part are subject to the negative procedure, subject to subsection (2).
- (2) Regulations under section [191](#) are subject to the affirmative procedure.

199 Interpretation of Part 6

In this Part—

“central system” and “designated central system” have the meaning given by section [184](#);

“code manager”, in relation to a designated document, has the meaning given by section [183\(1\)](#);

“code manager licence” has the meaning given by section [183\(2\)](#);

“designated document” has the meaning given by section [182\(1\)](#);

“the Independent System Operator and Planner” means the person for the time being designated under [section 162\(1\)](#);

“relevant licence” means a licence for the purposes of section 4 of the Electricity Act 1989 or section 5 of the Gas Act 1986 (prohibitions on unlicensed activities);

“responsible body”, in relation to a designated central system, has the meaning given by section [184\(4\)](#).

200 Transitional provision and pension arrangements

- (1) [Schedule 12](#) contains transitional provision in connection with this Part.
- (2) [Schedule 13](#) contains provision about pension arrangements in connection with this Part.

201 Minor and consequential amendments

[Schedule 14](#) contains minor and consequential amendments in connection with this Part.