

Draft Final Modification Report

CMP390: Updating application forms to enable disclosure of information to government for purposes of the National Security and Investment (NSI) Act 2021

Overview: The National Security and Investment (NSI) Act 2021 enables Government to scrutinise the acquisition of rights in entities and assets and intervene where there is a risk to national security. This modification seeks to amend the CUSC application forms to recognise and provide consent to ESO sharing information about the applicant with Government. Enabling BEIS to carry out any initial national security checks in line with the NSI Act and identify any issues at an early opportunity.

Modification process & timetable

1	Proposal Form 12 April 2022
2	Code Administrator Consultation 09 May 2022 - 30 May 2022
3	Draft Final Modification Report 16 June 2022
4	Final Modification Report 06 July 2022
5	Implementation 10 working days after Authority decision

Have 5 minutes? Read our [Executive summary](#)

Have 10 minutes? Read the full [Draft Final Modification Report](#)

Have 20 minutes? Read the full Draft Final Modification Report and Annexes.

Status summary: This report has been submitted to the Authority for them to decide whether this change should happen.

Panel Recommendation: The Panel will meet on 24 June 2022 to carry out their recommendation vote.

This modification is expected to have a: Low Impact on Generators, ESO and BEIS.

Governance route

Standard Governance modification to proceed to Code Administrator Consultation.

Who can I talk to about the change?

Proposer:

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What is the issue?

The NSI Act 2021 has introduced new powers for Government to scrutinise new build infrastructure for national security risks, and investigate the acquisition rights of the developing entities. The NSI Act 2021 applies where developers apply for a network connection.

Currently the ESO is bound by confidentiality agreements in the CUSC so cannot share the information that is required by the NSI Act.

Why change?

The CUSC needs to be updated to ensure this information can be provided to the Government in order to support the objectives of this new legislation.

What is the Proposer's solution?

- Amend the following CUSC application forms:
 - CUSC Exhibit B - Connection Application,
 - CUSC Exhibit D - BEGA Application; and
 - CUSC Exhibit I - Modification Application
 - To recognise and provide consent to ESO sharing information about the applicant with Government.
 - Enable BEIS to carry out any initial national security checks in line with the NSI Act and identify any issues at an early opportunity.

It is not anticipated that all applications will need to be shared as it is expected that thresholds will be agreed with BEIS.

Legal text

The legal text for this change can be found in Annex 1.

What is the impact of this change?

Proposer's assessment against CUSC Non-Charging Objectives

Relevant Objective	Identified impact
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	Positive Enables the ESO to support the objectives of the NSI Act by sharing relevant information.
(b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;	Positive Ensures there is appropriate governance ahead of connecting to the system thereby facilitating effective competition.

(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	Neutral No impact to the Electricity Regulation.
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	Positive Ensures that the CUSC enables information to be shared in a transparent manner.
*The Electricity Regulation referred to in objective (c) is Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) as it has effect immediately before IP completion day as read with the modifications set out in the SI 2020/1006.	

Proposer's assessment of the impact of the modification on the stakeholder / consumer benefit categories

Stakeholder / consumer benefit categories	Identified impact
Improved safety and reliability of the system	Positive This will not impact the safety and reliability of the system itself as it is updating the CUSC to support legislation relating to information sharing at the connection application stage. However, it will improve the overall safety of the system, by enabling appropriate due diligence ahead of new parties connecting.
Lower bills than would otherwise be the case	Neutral There is no impact to bills as this does not impact the charging elements of the CUSC.
Benefits for society as a whole	Positive This change will ensure that data can be shared so that there is appropriate scrutiny over new connections, to ensure that entities who may present a risk to national security do not have the ability to infiltrate the electricity system.
Reduced environmental damage	Neutral There is not impact to environmental damage.
Improved quality of service	Neutral There is no impact to quality of service.

Code Administrator Consultation summary

Code Administrator Consultation was opened on 9 May 2022 and closed 5pm on 30 May 2022 with 1 non-confidential response received, which was from the Proposer, and was supportive of the change and implementation date. The full response can be found in Annex 2.

Panel Recommendation vote

The Panel will meet on 24 June 2022 to carry out their recommendation vote.

They will assess whether a change should be made to the CUSC by assessing the proposed change and any alternatives against the Applicable Objectives.

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Andrew Enzor**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
Voting Statement					

Panel Member: **Andy Pace**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
Voting Statement					

Panel Member: **Binoy Dharsi**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
Voting Statement					

Panel Member: **Cem Suleyman**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
Voting Statement					

Panel Member: **Garth Graham**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
Voting Statement					

Panel Member: **Grace March**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
Voting Statement					

Panel Member: **Joe Dunn**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
Voting Statement					

Panel Member: **Karen Thompson – Lilley**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
Voting Statement					

Panel Member: **Paul Jones**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original					
Voting Statement					

Vote 2 – Which option is the best?

Panel Member	BEST Option?	Which objectives does this option better facilitate? (If baseline not applicable).
Andrew Enzor		
Andy Pace		
Binoy Dharsi		
Cem Suleyman		
Garth Graham		
Grace March		
Joe Dunn		
Karen Thompson – Lilley		
Paul Jones		

Panel conclusion

To be updated following the recommendation vote on 24 June 2022.

When will this change take place?

Implementation date

10 working days after the Authority decision.

Date decision required by

As soon as possible in July 2022.

Implementation approach

Network connection application documents to be updated. This change will impact any new application forms submitted after the Implementation Date.

Interactions

- | | | | |
|--|--|---|--------------------------------|
| <input type="checkbox"/> Grid Code | <input type="checkbox"/> BSC | <input type="checkbox"/> STC | <input type="checkbox"/> SQSS |
| <input type="checkbox"/> European
Network Codes | <input type="checkbox"/> EBR Article 18
T&Cs ¹ | <input type="checkbox"/> Other
modifications | <input type="checkbox"/> Other |

None identified.

Acronyms, key terms and reference material

Acronym / key term	Meaning
BEIS	Department for Business, Energy and Industrial Strategy
BSC	Balancing and Settlement Code
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
EBR	Electricity Balancing Regulation
ESO	Electricity System Operator
NSI Act	National Security and Investment Act 2021
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions

Annexes

Annex	Information
Annex 1	Legal Text
Annex 2	Code Administrator Consultation Response

Reference material

- [National Security and Investment Act 2021](#)

¹ If your modification amends any of the clauses mapped out in Exhibit Y to the CUSC, it will change the Terms & Conditions relating to Balancing Service Providers. The modification will need to follow the process set out in Article 18 of the Electricity Balancing Guideline (EBR – EU Regulation 2017/2195) – the main aspect of this is that the modification will need to be consulted on for 1 month in the Code Administrator Consultation phase. N.B. This will also satisfy the requirements of the NCER process.