SEC
Smart Energy Code

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Paper Reference:	**SECP_65_1502_15**
Action:	**For Decision**

New Modification Proposal SECMP0070

1. Purpose

New Modification Proposal SECMP0070 'Permission to give Alt HAN Forum vires for enduring management and maintenance of the Exempt Premises List (EPL)' has been raised by Npower Group Ltd. This paper sets out our proposed approach for progressing this modification for the Panel's approval. We are recommending that this modification be progressed directly to the Report Phase and that the Panel approves the Modification Report, the implementation approach, and that SECMP0070 is a Self-Governance Modification.

This paper provides a high-level summary of the key points. A copy of the Proposal Form submitted by the Proposer can be found in Appendix A. Full details can be found in the draft Modification Report in Appendix B.

2. Summary of the proposal

What is the issue?

The Alt HAN Forum is constrained by the Alt HAN Service and Activities as outlined in SEC Section Z 'Alt HAN Arrangements'. Within Section Z, there is no information relating to the Exempt Premises List. However, in practice, management of the Exempt Premises List is linked to Alt HAN Activities and Services, as is outlined in the Supply Licence Conditions.

Under the current governance, there are risks associated with Alt HAN Co taking any action in contracting for the Exempt Premises List services, due to it not being explicitly referenced in the SEC. Such actions could be subject to challenge, due to funding of these activities via the Alt HAN Costs, which are only recoverable in respect of the Alt HAN Forum's specified functions and powers.

What has the Proposer proposed as a solution?

To avoid any potential risks of challenge, it is proposed to amend Section Z to include the management of the Exempt Premises List to fall under Alt HAN Services and Activities. This would then mean the Alt HAN Forum is within their remit to carry out the management of the Exempt Premises List uncontended.

3. Proposed progression

We believe that this modification should be progressed directly to the Report Phase. This is because the modification only introduces minor changes to Section Z to align with the Supply Licence Conditions. This approach has been discussed and agreed under the Alt HAN arrangements, and this modification is needed only to give rise to that conclusion; as such, there is nothing further a Working Group could add.

Also, the Proposer has requested that this modification be implemented before the end of March 2019 as the initial submission of the Exempt Premises List is expected in March 2019. Therefore, progressing directly to Report Phase would enable this to be actioned.

Determination approach

This is recommended to be progressed as a Self-Governance Modification, as the modification does not meet the criteria set out in SEC Section D2.6, in terms of any significant or material impact on energy consumers, competition in energy supply, environment, data privacy, security of supply of security of systems, or SEC Sections C or D, and is not likely to discriminate one Party or class of Parties.

Implementation approach

We recommend an implementation approach of:

- 10 Working Days following approval (if Self-Governance, this would be 10 Working Days following the end of the referral period).

4. Recommendations

The Panel is requested to:

- **AGREE** that SECMP0070 should be progressed to the Report Phase;
- **APPROVE** the Modification Report;
- **APPROVE** the implementation approach; and
- **AGREE** that SECMP0070 should be progressed as a Self-Governance Modification.

Jordan Crase

SECAS Team

8 February 2019

Attachments:

- **Appendix A:** SECMP0070 Proposal Form
- **Appendix B:** SECMP0070 Modification Report
    - **Annex A:** SECMP0070 Legal Text

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SEC Modification Proposal Form – SECMP0070

Mod Title

Permission to give Alt HAN Forum vires for enduring management and maintenance of the Exempt Premises List (EPL)

Submission Date

01 February 2019

Details of Proposer	
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Details of Representative (if applicable)	
Name:	
Organisation:	
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1. What issue are you looking to address?

Background

Under Supply Licence Conditions (SLC) 55.2/49.2, the relevant suppliers must, in conjunction with one another, ensure that the Alt HAN Activities are carried out and the Alt HAN Services are made available.

Under SLC 55.5/49.5, each relevant supplier must take all reasonable steps to ensure that the Alt HAN Activities are carried out and the Alt HAN Services are provided by means of the arrangements set out in Section Z of the SEC, and ensure that the costs of the Alt HAN Activities and Alt HAN Services are recovered as provided for in Section Z of the SEC.

Three relevant licence obligations apply in relation to the Exempt Premises List:

a) SLC 55.11/49.11 obliges the relevant suppliers to, in conjunction with one another, establish and maintain the Exempt Premises List.

b) SLC 55.14/49.14 obliges the relevant suppliers, in conjunction with one another, to produce an initial draft and obtain the SoS's approval of the Exempt Premises List.

c) SLC 55.16/49.16 obliges the relevant suppliers, in conjunction with one another by means of participation in the arrangements set out at Section Z of the SEC, to review and propose amendments to the Exempt Premises List.

The Issue

Under Section Z of the SEC, the Alt HAN Forum's functions (and therefore its powers) are broadly drafted but generally constrained by reference to the Alt HAN Activities/ Services. The SEC does not currently provide for the enduring management, maintenance, and update of the Exempt Premises List to fall within the scope of Alt HAN arrangements. Consequently, this is an area which needs clarification.

In practice, the management of the Exempt Premises List and associated Exempt premises is clearly linked to the Alt HAN Activities and Services.

a) The Alt HAN Forum are responsible for ensuring that Alt HAN is delivered economically and efficiency. The Alt HAN Forum will be undertaking economic assessment activities to understand the economic feasibility of Alt HAN delivery. These activities are essential in informing the disproportionate costs assumptions.

b) The Alt HAN Co operational service provider will maintain the operational database of premises-level data identifying the Alt HAN candidate buildings (as part of At HAN Activities). This database will then be used for operational purposes and could be utilised for identifying Exempt Premises. For example, as a result of building surveying activities, or due to failed Alt HAN equipment installs.

c) The Alt HAN Co operational service provider will establish and manage the Alt HAN Inventory (in line with requirements set out in section Z4.30 of Smart Energy Code). This database will also contain premises-level data.

Although the Exempt Premises List and Alt HAN Activities/ Services are dealt with in the same licence condition, the Exempt Premises List is not included in the list of Alt HAN Activities.

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As the development and maintenance of the Exempt Premises List is not an Alt HAN Activity/ Service, the development and maintenance of the Exempt Premises List is not within the power of the Alt HAN Forum.

2. Why does this issue need to be addressed? *(i.e. Why is doing nothing not an option?)*

If the separation of the Exempt Premises List from the Alt HAN Activities/ Services was to be interpreted as deliberate, then the development and maintenance of the Exempt Premises List is not an Alt HAN Activity/ Service. However, BEIS have indicated that the policy intent was to undertake the Exempt Premises List activities as part of Alt HAN arrangements.

As the Exempt Premises List is closely linked to the Alt HAN Activities, the Alt HAN Forum should be the vehicle for delivering and managing the Exempt Premises List.

If the acts of Alt HAN Co in contracting for Exempt Premises List services are ultra vires, they could be challenged and set aside. The key practical risk is probably that someone challenges the funding of these activities via the Alt HAN Costs, which are properly only recoverable in respect of the Alt HAN Forum's functions and powers.

The Exempt Premises List management/ revision in an enduring activity, and this Modification seeks to mitigate future risk exposure.

3. What is your Proposed Solution?

The proposed approach is to amend the Smart Energy Code as follows:

- Section Z of the SEC is modified to include, within the list of Forum activities, the task of reviewing and proposing amendments to the Exempt Premises List. This is the task which will take time and expense, and its inclusion within Section Z is justified by the express reference to Section Z of the SEC in SLC 55.16/49.16.

One possible way to regularise the position would be to amend the energy supply licences to include a direct link between the Exempt Premises List and the Alt HAN Activities. However, SEC modification is considered the simpler option delivering a sufficient level of risk mitigation.

The proposed approach is to add the activities at SLC55.16/49.16 and a provision for managing premise level data to the list of the Forum's Functions, and amend Z1.3(a) to refer to the EPL licence conditions (55.16/49.1).

The proposed modification within section Z1.3(a) of the SEC (Forum Objectives) is as follows:

(a) by virtue of the operation of this Section Z, Relevant Supplier Parties are able to comply with their obligations under Standard Conditions 55.2 and 55.16 of the Electricity Supply Licence and Standard Conditions 49.2 and 49.16 of the Gas Supply Licence;

The proposed modification within section Z1.4 of the SEC (Forum Functions) is as follows:

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Z1.4 The Forum shall, in accordance with the provisions of this Section Z:

a) make all decisions required for the purpose of:

(i) carrying out the Alt HAN Activities and the making available and provision of the Alt HAN Services~~,~~; and

(ii) managing, maintaining, reviewing and updating the Exempt Premises List and any separate database of Exempt Premises, including reviewing and proposing to the Secretary of State revisions to the Exempt Premises List as required by Standard Condition 55.16 of the Electricity Supply Licence and Standard Condition 49.16 of the Gas Supply Licence,

except for any decisions which may from time to time be delegated by it to Alt HAN Co or any Forum Sub-Group;

b) determine which (if any) decisions are to be delegated to Alt HAN Co or any Forum Sub-Group;

c) give such directions to Alt HAN Co or any Forum Sub-Group as the Forum may consider appropriate (which may include directions in relation to any decisions otherwise delegated by the Forum);

d) approve the annual budget of Alt HAN Co;

e) determine any appeals made to it from decisions made by Alt HAN Co or a Forum Sub-Group; and

f) make such other decisions as may from time to time be required in accordance with the provisions of this Section Z.

A new definition of the Exempt Premises List will also need to be added to Section Z6.1 of the SEC. We propose that this definition reads as follows:

Exempt Premises	*has the meaning given to that expression in Standard Condition 55.10 of the Electricity Supply Licence and Standard Condition 49.10 of the Gas Supply Licence.*
Exempt Premises List	*has the meaning given to that expression in Standard Condition 55.12 of the Electricity Supply Licence and Standard Condition 49.12 of the Gas Supply Licence.*

4. What SEC objectives does this Modification better facilitate?

This Modification better facilitates SEC Objective (h), which is to is to facilitate the establishment and operation of the Alt HAN Arrangements. This is because it provides a more clear regulatory framework for the management of Exempt Premises List by Alt HAN Forum consistent with licence obligations.

5. What is the requested Path type?	Path 3

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The SEC Modification does not require Authority consent and does not meet the criteria for a Fast Track Modification.

It is recommended that this Modification should be progressed as a Path 3 'Self-Governance' Modification.

The Modification is not proposed by the Authority or by DCC at the direction of the Authority, therefore does not have the status of a Path 1 Modification.

We also believe the Modification does not meet the criteria set out in SEC Section D2.6, in terms of any significant or material impact on energy consumers, competition in energy supply, environment, data privacy, security of supply of security of systems, or SEC Sections C or D, and is not likely to discriminate one Party or class of Parties. Therefore, it does not hold the status of a Path 2 Modification.

In addition, we note that this matter has already been discussed at the Alt HAN Forum and the Alt HAN Supplier Contract Governance and Regulatory sub-group, and, as such, all Relevant Supplier Parties have been given an opportunity to consider the proposed solution.

It is suggested therefore that this Modification does not require the Refinement Process as it has already been assessed by Industry and should be able to progress directly to Modification Report stage.

6. Are you requesting that the Modification Proposal be treated as Urgent?	No

This Modification does not meet the criteria for an Urgent Proposal.

7. What is your desired implementation date?

Before end of March 2019. The initial submission of Exempt Premises List is expected in March 2019. From thereon, the enduring management of Exempt Premises List commences and at this point the clarification in the SEC is required to enable Forum to manage the processes and data associated with the revisions to the Exempt Premise List.

It is therefore suggested that this modification is included in the first available ad-hoc release between the scheduled February release and the scheduled June release.

8. Which SEC Parties are expected to be impacted? (Please mark with an X)

Large Supplier Parties	X	Small Supplier Parties	X
Electricity Network Parties		Gas Network Parties	
Other SEC Parties			

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This Modification will facilitate compliance with Supply Licence conditions and SEC which affects all Large and Small Supplier Parties.

9. Which parts of the SEC will be impacted?

The part of the SEC which will be impacted is SEC section Z.

10. Will there be an impact on Central Systems? (Please mark with an X)

DCC Systems		Party interfacing systems	
Smart Metering Systems		Communication Hubs	
Other systems			

There will be no impact on Central Systems.

11. Will there be any testing required?

There will be no testing required.

12. Will this Modification impact other Energy Codes?	No

13. Will this Modification impact Greenhouse Gas Emissions?	No

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Smart Energy Code

SECMP0070

'Permission to give Alt HAN Forum vires for enduring management and maintenance of the Exempt Premises List (EPL)'

Modification Report

Version 0.1

Administered by

Gemserv

About this document

This document is the Modification Report for SECMP0070 'Permission to give Alt HAN Forum vires for enduring management and maintenance of the Exempt Premises List'. It provides detailed information on the background, issue, solution, costs, impacts and implementation approach. It also summarises the discussions that have been held and the conclusions reached with respect to this Modification Proposal.

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This document also has one annex:

- **Annex A** contains the redlined changes to the Smart Energy Code (SEC) required to deliver the proposed solution.

1. Summary

The Alternative Home Area Network (Alt HAN) Forum is constrained by the Alt HAN Service and Activities outlined in SEC Section Z 'Alt HAN Arrangements'. Within Section Z, there is no information relating to the Exempt Premises List. However, in practice, management of the EPL is linked to Alt HAN Activities and Services, as is outlined in the relevant Supply Licence Conditions.

Under the current governance there are risks associated with Alt HAN Co taking any action in contracting for EPL services, as it is not explicitly referenced in the SEC. This could be subject to challenge, due to funding of these activities via the Alt HAN Costs, which are only recoverable in respect of the Alt HAN Forum's specified functions and powers.

To avoid any potential risk of challenge, it is proposed to amend Section Z to include the management of the EPL to fall under Alt HAN Services and Activities. This would then mean the Alt HAN Forum is within their remit to carry out the management of the EPL uncontended.

Large and Small Supplies would be affected by the changes introduced by this modification but would not require any implementation effort. Implementation costs would be limited to Smart Energy Code Administrator and Secretariat (SECAS) time and effort in implementing the cost changes. Due to the Exempt Premises List becoming effective in March 2019, SECMP0070 is proposed for implementation 10 Working Days following decision.

2. Background

Exempt Premises List

The Exempt Premises List contains premises or descriptions of premises where the Home Area Network (HAN) does not extend to the whole premise or where there are no communications between parts of a Smart Metering System, or multiple Smart Metering Systems, on a premise. Premises that meet these criteria do so due to situations where there are technical impracticalities, or there are disproportionate costs in implementation.

Supply Licence Conditions

The SLCs and the Alt HAN Activities & Services

Under Supply Licence Conditions (SLCs) 55.2 for electricity and 49.2 for gas, the relevant Suppliers must, in conjunction with one another, ensure that the Alt HAN Activities are carried out and the Alt HAN Services are made available.

Under SLCs 55.5/49.5, each relevant Supplier must take all reasonable steps to ensure that the Alt HAN Activities are carried out and the Alt HAN Services are provided by means of the arrangements set out in SEC Section Z. Also, under SLCs 55.5/49.5 the relevant Supplier must ensure that the costs of the Alt HAN Activities and Alt HAN Services are recovered as provided for in Section Z.

The SLCs and the Exempt Premise List

There are three relevant licence obligations in each of the SLCs for electricity and gas that apply in relation to the EPL:

- SLC*s* 55.11/49.11 (electricity/gas) obliges the relevant *S*uppliers to, in conjunction with one another, establish and maintain the Exempt Premises List.
- SLC*s* 55.14/49.14 obliges the relevant *S*uppliers, in conjunction with one another, to produce an initial draft and obtain the Secretary of State's approval of the Exempt Premises List.
- SLC*s* 55.16/49.16 obliges the relevant *S*uppliers, in conjunction with one another by means of participation in the arrangements set out *in* Section Z, to review and propose amendments to the Exempt Premises List.

What is the issue?

Under Section Z, the Alt HAN Forum's function is constrained by the reference to the Alt HAN Activities and Services. The SEC does not provide any information regarding the enduring management, maintenance and update of the EPL as falling within the scope of Alt HAN arrangements.

In practice, the management of the EPL and associated exempt premises is clearly linked to the Alt HAN Activities and Services, and it has also been indicated by the Department for Business, Energy and Industrial Strategy (BEIS) that this was the policy intent. In particular:

- The Alt HAN Forum are responsible for ensuring that Alt HAN is delivered economically and efficiently, by undertaking assessments to understand the economic feasibility of Alt HAN delivery.
- The Alt HAN Co operational service provider will maintain the operational database of premises-level data identifying the Alt HAN candidate buildings. This database will then be used for operational purposes and could be utilised for identifying exempt premises. For example, as a result of building surveying activities, or due to failed Alt HAN equipment installs.
- The Alt HAN Co operational service provider will establish and manage the Alt HAN Inventory in line with requirements set out in SEC Section Z4.30. This database will also contain premises-level data.

As the EPL is closely linked to the Alt HAN Activities, the Alt HAN Forum should be responsible for delivering and managing the EPL.

If the acts of Alt HAN Co in contracting for EPL services are outside of their vires, they could be challenged and set aside. There is a risk that without powers specified in the SEC there could be a challenge to the funding of these activities via the Alt HAN Costs, which are properly only recoverable in respect of the Alt HAN Forum's functions and powers.

SECMP0070 was raised by Npower Group Ltd on 01 February 2019 to resolve this issue.

3. Solution

Proposed Solution

The proposed approach is to include, within the list of Alt HAN Forum activities in Section Z, the task of reviewing and proposing amendments to the Exempt Premises List. This is the task which will take time and expense, and its inclusion within Section Z is justified by the express reference to Section Z in SLCs 55.16/49.16.

Legal text

The changes to the SEC required to deliver the proposed solution can be found in Annex A.

4. Impacts

This section summarises the impacts that would arise from the implementation of this modification.

SEC Parties

SEC Party Categories impacted			
✓	Large Suppliers	✓	Small Suppliers
	Electricity Network Operators		Gas Network Operators
	Other SEC Parties		DCC

Suppliers will be affected by the implementation of SECMP0070 through their participation in the Alt HAN arrangements, but are not expected to require any effort in implementing these changes.

DCC System

There are no impacts on the Data Communication Company (DCC) Systems and there is no testing required as part of the implementation of this modification.

SEC and subsidiary documents

The following parts of the SEC will be impacted:

- Section Z 'Alt HAN Arrangements'

Other industry Codes

There are no impacts on other industry codes.

Greenhouse gas emissions

There are no impacts on greenhouse gas emissions.

5. Costs

DCC costs

There are no DCC costs associated with this modification.

SECAS costs

The estimated SECAS implementation costs to implement this modification is two days of effort, amounting to approximately £1,200. The activities needed to be undertaken for this are:

- Updating the SEC and releasing the new version to the industry.

SEC Party costs

There are no SEC Party costs expected to be incurred in implementing this modification.

6. Implementation approach

Recommended implementation approach

We are recommending an implementation date of:

- **10 Working Days following decision** (if approved under Self-Governance, this would be 10 Working Days following the end of the referral period).

The Proposer has requested that this is implemented in an ad-hoc release between the February 2019 and June 2019 SEC Releases. The initial submission of the EPL is expected in March 2019, which is also when the enduring management of the EPL is to commence. Therefore, clarification is required in the SEC as soon as possible to allow the Alt HAN Forum to manage the processes and data associated with the revisions to the EPL.

7. Conclusions

Proposer's rationale against the General SEC Objectives

Objective (h)[1]

The Proposer believes that SECMP0070 will better facilitate SEC Objective (h) as it provides a clearer regulatory framework for the management of Exempt Premises List by Alt HAN Forum consistent with licence obligations.

[1] Facilitate the establishment and operation of the Alt HAN Arrangements.

Appendix 1: Glossary

This table lists all the acronyms used in this document and the full term they are an abbreviation for.

Glossary	
Acronym	**Full term**
Alt HAN	Alternative Home Area Network
BEIS	Department for Business, Energy and Industrial Strategy
DCC	Data Communication Company
HAN	Home Area Network
SEC	Smart Energy Code
SECAS	Smart Energy Code Administrator and Secretariat
SLC	Supply Licence Conditions

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SECMP0070 'Permission to give Alt HAN Forum vires for enduring management and maintenance of the Exempt Premises List (EPL)'

Annex A

Legal text – version 0.1

About this document

This document contains the redlined changes to the SEC that would be required to deliver this Modification Proposal.

These changes have been drafted against SEC Version 6.5.

Section Z 'The Alt HAN Arrangements'

Amend Sections Z1.3 and Z1.4 as follows:

Forum Objectives, Functions and Powers

Forum Objectives

Z1.3 The Forum shall, in the performance of its functions and exercise of its powers, always act in a manner designed to achieve the objectives (the **Forum Objectives**) that:

(a) by virtue of the operation of this Section Z, Relevant Supplier Parties are able to comply with their obligations under Standard Conditions 55.2 and 55.16 of the Electricity Supply Licence and Standard Conditions 49.2 and 49.16 of the Gas Supply Licence;

(b) the Alt HAN Arrangements are given effect so as:

(i) to facilitate the economic and efficient carrying out of the Alt HAN Activities and provision of the Alt HAN Services;

(ii) to facilitate competition between persons engaged in, or in Commercial Activities connected with, the Supply of Energy;

(iii) to ensure that Energy Consumers' experience of the installation of Alt HAN Equipment at their premises is consistent with their reasonable expectations;

(iv) to ensure that all activities undertaken by or on behalf of Relevant Supplier Parties in relation to the installation, operation, maintenance, removal and replacement of Alt HAN Equipment are carried out in a fair, transparent, appropriate and professional manner;

(v) to ensure the protection of Data and the security of Data and Systems used for the purpose of the carrying out of the Alt HAN Activities and provision of the Alt HAN Services; and

(vi) to ensure that the Alt HAN Arrangements are administered in an economic, efficient and transparent manner; and

(c) the Forum conducts its affairs in an open and transparent manner.

Forum Functions

Z1.4 The Forum shall, in accordance with the provisions of this Section Z:

(a) make all decisions required for the purpose of:

(i) carrying out the Alt HAN Activities and the making available and provision of the Alt HAN Services, except for any decisions which may from time to time be delegated by it to AltHANCo or any Forum Sub-Group;

(ii) managing, maintaining, reviewing and updating the Exempt Premises List and any separate database of Exempt Premises, including reviewing and proposing to the Secretary of State revisions to the Exempt Premises List as required by Standard Condition 55.16 of the Electricity Supply Licence and Standard Condition 49.16 of the Gas Supply Licence.

(b) determine which (if any) decisions are to be delegated to AltHANCo or any Forum Sub-Group;

(c) give such directions to AltHANCo or any Forum Sub-Group as the Forum may consider appropriate (which may include directions in relation to any decisions otherwise delegated by the Forum);

(d) approve the annual budget of AltHANCo;

(e) determine any appeals made to it from decisions made by AltHANCo or a Forum Sub-Group; and

(f) make such other decisions as may from time to time be required in accordance with the provisions of this Section Z.

Z1.5 The Forum shall:

(a) provide to the Panel such report or other information as the Panel may request for the purpose of fulfilling its duty at Section C2.3(h) (Panel Duties); and

(b) (to the extent to which it reasonably considers that it is necessary to do so) liaise and exchange information with, provide advice to, and seek the advice of the Technical Architecture and Business Architecture Sub-Committee and the Security Sub-Committee on matters which fall within the scope of the activities of each of those Sub-Committees.

Forum Powers

Z1.6 Without prejudice to any other rights or powers granted to the Forum in this Section Z, the Forum shall, in accordance with the provisions of this Section Z, have the power to:

(a) make written representations in relation to the purpose or effect of any Modification Proposal which:

(i) is likely to affect this Section Z;

(ii) is likely to affect the provisions relating to the Alt HAN Charges at Section K (Charging Methodology);

(iii) relates to other parts of the Code, but may have a material effect on the Alt HAN Arrangements;

(b) appoint and remove professional advisers;

(c) consider, approve and authorise the entering into by AltHANCo of contracts; and

(d) do anything else necessary for, or reasonably incidental to, the fulfilment of its functions under this Section Z.

Add the following new definitions to Section Z6.1 in alphabetical order:

Exempt Premises	has the meaning given to that expression in Standard Condition 55.10 of the Electricity Supply Licence and Standard Condition 49.10 of the Gas Supply Licence.
Exempt Premises List	Has the meaning given to that expression in the Standard Condition 55.12 of the Electricity Supply Licence and Standard Condition 49.12 of the Gas and Supply Licence.