



Draft Legal Text

SECAS Contact:

Name:

Harry Jones

Number:

020 7081 3345

Email:

SEC.change@gemserv.com

SECMP0051:

Section D Review: Amendments to the Fast Track Modification Process

Summary

This modification seeks to streamline the process for progressing a Fast Track Modification Proposal through the SEC Modifications Process, by aligning the process to that used under other energy codes.

About this document

This document contains the draft SEC legal text that will deliver the intent of SECMP0051.

SECMP0051 - Draft
Legal Text

23rd May 2018

Version 0.1

Page 1 of 6

This document is
classified as **White**

© SECCo 2018

1. Draft Legal Text

This section sets out the draft Legal Text Changes for SECMP0051. These changes have been drafted against the Smart Energy Code (SEC) version 5.14¹.

Section D ‘Modification Process’

Amend Sections D1.3 to D1.7 as follows:

D1.3 A Modification Proposal may be submitted by any of the following persons (the **Proposer**):

- (a) a Party;
- (b) Citizens Advice or Citizens Advice Scotland;
- (c) any person or body that may from time to time be designated in writing by the Authority for the purpose of this Section D1.3;
- (d) the Authority or the DCC acting at the direction of the Authority, but in each case only in respect of variations to this Code which:
 - (i) the Authority reasonably considers are necessary to comply with or implement the EU Regulations, any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators; and/or
 - (ii) are in respect of a Significant Code Review; and
- (e) the Panel (where all Panel Members at the relevant meeting vote unanimously in favour of doing so), but only in respect of variations to this Code which are intended to give effect to:
 - (i) recommendations contained in a report published by the Panel pursuant to Section C2.3(i) (Panel Duties);

¹Note that if a new version of the SEC is designated before the submission of the Final Modification Report to the Change Board or Authority, the drafting will be checked to make sure there are no consequential impacts. Our current understanding is that the specifications that SECMP0051 is amending are not expected to change as part of any forthcoming designations.

-
- (ii) recommendations contained in a report published by the Code Administrator pursuant to Section C7.2(c) (Code Administrator);
 - (iii) Fast-Track Modifications ~~(as described in Section D2 (Modification Paths))~~; and/or
 - (iv) consequential changes to this Code required as a result of changes proposed or already made to one or more other Energy Codes.

Form of the Proposal

- D1.4 The Proposer must submit a Modification Proposal to the Code Administrator.
- D1.5 The Code Administrator shall from time to time publish a prescribed form of Modification Proposal on the Website. The prescribed form must require the provision by the Proposer of all of the information set out in Section D1.7, and any other information that the Panel may reasonably approve.
- D1.6 Each Proposer must use the prescribed form when submitting a Modification Proposal.

Content of the Proposal

- D1.7 A Modification Proposal must contain the following information:
- (a) the name of the Proposer;
 - (b) the name and contact details of an employee or representative of the Proposer who will act as a principal point of contact in relation to the proposal;
 - (c) the date on which the proposal is submitted;
 - (d) a description in sufficient detail of the nature of the proposed variation to this Code and of its intended purpose and effect;
 - (e) a statement of whether, in the opinion of the Proposer, the Modification Proposal should be a Path 1 Modification, a Path 2 Modification or a Path 3 Modification;
 - (f) a statement of whether the Proposer considers, in the light of any guidance on the topic issued by the Authority from time to time, that the Modification Proposal should be treated as an Urgent Proposal (and, if so, its reasons for so

considering);

- (g) a statement of whether or not the Modification Proposal is intended to be a Fast-Track Modification ~~(bearing in mind that only the Panel may raise Fast Track Modifications)~~;

Amend Section D2.8 as follows:

- D2.8 ~~The Panel may itself raise~~A Modification Proposals ~~where it considers it necessary to~~
~~de-submitted~~ to correct typographical or other minor errors or inconsistencies in this
Code shall have the status of a ~~(Fast-Track Modifications)~~.

Amend Sections D3.5 to D3.6 as follows:

Initial Consideration by the Panel

- D3.5 The Panel shall consider each Modification Proposal and the accompanying documents referred to in section D3.4:
- (a) in the case of Modification Proposals expressed by the Proposer to be urgent, within 5 Working Days after the proposal's submission; and
- (b) in respect of all other Modification Proposals, at the next Panel meeting occurring more than 6 Working Days after the Modification Proposal's submission ~~(provided that, in the case of Fast Track Modifications, the Panel shall not consider the Modification Proposal earlier than 15 Working Days after it was raised)~~.

D3.6 In considering each Modification Proposal pursuant to Section D3.6, the Panel shall determine:

- (a) whether to refuse the Modification Proposal in accordance with Section D3.8;
- (b) whether the Modification Proposal is a Path 1 Modification, a Path 2 Modification or a Path 3 Modification (taking into account the view expressed by the Proposer in the Modification Proposal and as described in Section D2);
- (c) whether the Authority should be asked to consider whether the Modification Proposal should be treated as an Urgent Proposal (and, where the Proposer has expressed the Modification Proposal to be urgent, the Panel shall so ask the Authority);
- (d) in the case of Fast-Track Modifications, whether the Modification Proposal should be progressed and approved ~~or withdrawn~~ as a Fast-Track Modification (and such approval shall require the unanimous approval of all the Panel Members present at the relevant meeting, otherwise the Modification Proposal shall be progressed as though it is not a Fast Track Modification);

Amend Sections D9.5 as follows:

Fast-Track Modifications

D9.5 In the case of a Fast-Track Modification, any decision of the Panel under Section D3.6 to approve the Modification Proposal shall be final, subject to the following:

- (a) ~~where the Panel has raised a Fast Track Modification, any Party may notify the Panel that the Party believes that the procedure for Fast Track Modifications is inappropriate given the nature of the variation in question (and the Party should give reasons to substantiate this belief) any Party that disagrees with the Modification Proposal being approved as a Fast Track Modification, may (within 15 Working Days following the publication of that decision) object to the decision; and~~
- (b) ~~when the Panel considers the status of the Fast Track Modification in accordance with Section D3.6 (Initial Consideration of Modification Proposals), it shall consider any notifications received pursuant to Section D9.5(a) where an objection is received, the Panel's decision on the Modification Proposal shall be cancelled (and, if already implemented, such implementation shall be reversed) and the Modification Proposal shall be returned to the Panel at its next meeting. The Panel shall then revise its determination under Section D3.6 as thought the Modification Proposal is not a Fast Track Modification.;~~
- (c) ~~where the Panel nevertheless determines under Section D3.6 (Initial Consideration of Modification Proposals) that the Modification Proposal should be approved, the Panel shall notify the Party that raised the issue under Section D9.5(a);~~
- (d) ~~such Party may, within 10 Working Days thereafter, refer the matter to the Authority for final determination; and~~
- (e) ~~following a referral to the Authority in accordance with Section D9.5(d), where the Authority determines that the Panel's decision to follow the Fast Track Procedure was inappropriate given the nature of the variation in question, the Modification Proposal shall be cancelled and not implemented (or, if already implemented, shall be reversed)~~