



Department  
of Energy &  
Climate Change

# Smart Metering Implementation Programme

Stage 1 of the Smart Energy Code – supplementary consultation on draft  
legal text to support transitional arrangements

18 April 2013

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This Consultation can also be found on DECC's website

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# Table of Contents

<b>1. Summary .....</b>	<b>1</b>
<b>2. Introduction.....</b>	<b>2</b>
2.1 General information about this consultation.....	2
<b>3. Transition to the enduring smart meter arrangements .....</b>	<b>4</b>
3.1 The transition approach.....	4
3.2 Moving from a Programme-led to an industry-led governance process .....	4
<b>4. Transitional Regulation .....</b>	<b>6</b>
4.1 The purpose of transitional regulation.....	6
4.2 Transitional regulation covered in the November 2012 publications .....	6
4.3 The legal framework during transition.....	7
4.3.1 As proposed in November 2012 – transitional content in the SEC .....	7
4.3.2 As proposed in November 2012 – modifying regulation during transition.....	7
4.3.3 Amending the regulatory framework for transition.....	8
4.3.4 Translation into legal drafting.....	11
4.3.5 Linking the SEC Objectives to transition .....	14
4.4 How the SEC could be modified during transition .....	14
4.5 Responding to this consultation and next steps.....	16
<b>Annex A: The Transition Schedule (Section X) of the SEC .....</b>	<b>17</b>
<b>Annex B: Revised sections of the DCC Licence .....</b>	<b>25</b>



# 1. Summary

The Government's Smart Metering Implementation Programme is entering an important period of transition. Over the coming months key elements of the framework for smart metering will come into effect. In the first instance, this includes awarding the licence for the Data and Communications Company (DCC) and the establishment of the first stage of the Smart Energy Code (SEC) – the contractual framework which will set out the day-to-day rules and requirements for smart meter industry participants. In due course, the arrangements will transition to a point when the DCC is fully operational and can interface with its users, and all smart metering arrangements are set out in full in the SEC.

Between these times, the Government will be completing the design and delivery of products and policies, some of which will be set out in the regulatory framework. At the same time, the industry will go through a phase of system and user interface testing; identifying issues, and finding ways to resolve them. The Smart Metering Implementation Programme will work closely with key stakeholders during this transition.

There needs to be a process to manage the regulatory framework during this period so it is fit for purpose and can be amended as necessary. The rights and obligations on participants during transition will be slightly different to those in the enduring world and the regulatory framework needs to reflect this. Also, transition to the enduring smart metering world will involve large scale changes to industry processes, system design, and relationships. As these changes are happening, especially where testing activity highlights the need to change design, there is benefit in ensuring any corresponding changes to the regulatory framework can happen quickly.

The Government is continuing to develop its overall approach to how the smart metering arrangements best transition to their enduring state. It will continue to engage with stakeholders as the detail of this approach is considered. This consultation summarises the Government's current thinking on one key aspect, namely the approach to transition of regulatory provisions under the SEC. It sets out what the Government has previously said on regulation during transition, and how and why it proposes changing the regulatory framework to better meet the requirements of the transitional period. It specifically seeks views on:

- new transitional objectives for SEC Parties, to be included in a new transition section (Section X) of the SEC, replacing the proposed Transition Scheme described in the draft DCC Licence;
- proposals to incorporate technical subsidiary documentation into the SEC during the transitional period; and
- introducing limited powers for the Secretary of State to amend the transition section of the SEC to meet transitional objectives.

Finally, the consultation summarises how these new limited powers could be used alongside the other mechanisms that exist to modify the SEC, to most appropriately meet the needs of all parties during transition.

## 2. Introduction

### 2.1 General information about this consultation

#### How to respond

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome. Responses to this consultation should be sent to [smartmetering@decc.gsi.gov.uk](mailto:smartmetering@decc.gsi.gov.uk). The consultation closes on 17 May 2013.

Responses should be clearly marked Smart Metering Implementation Programme: Stage 1 of the Smart Energy Code – supplementary consultation on draft legal text. Responses and any enquiries related to the consultation should be addressed to:

Smart Metering Implementation Programme – Regulation Team  
Department of Energy & Climate Change,  
3 Whitehall Place,  
London  
SW1A 2AW  
Tel: 0300 068 5163  
Email: [smartmetering@decc.gsi.gov.uk](mailto:smartmetering@decc.gsi.gov.uk)  
Consultation reference: URN **13D/093**

#### Territorial extent

This consultation applies to the gas and electricity markets in Great Britain. Responsibility for energy markets in Northern Ireland lies with the Northern Ireland Executive's Department of Enterprise, Trade and Investment.

#### Additional copies

You may make copies of this document without seeking permission. An electronic version can be found [www.gov.uk/government/consultations/Stage-1-of-the-Smart-Energy-Code](http://www.gov.uk/government/consultations/Stage-1-of-the-Smart-Energy-Code) Other versions of the document in Braille, large print or audio-cassette are available on request. This includes a Welsh version. Please contact us under the above details to request alternative versions.

#### Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided

as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

The Department will summarise all responses and place this summary on our website at [www.gov.uk/government/consultations/Stage-1-of-the-Smart-Energy-Code](http://www.gov.uk/government/consultations/Stage-1-of-the-Smart-Energy-Code) This summary will include a list of names or organisations that responded but not people's personal names, addresses or other contact details.

### **Quality assurance**

This consultation has been carried out in accordance with the Government's Code of Practice on consultation, which can be found at <http://www.bis.gov.uk/files/file47158.pdf> . If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

DECC Consultation Co-ordinator  
3 Whitehall Place  
London SW1A 2AW  
Email: [consultation.coordinator@decc.gsi.gov.uk](mailto:consultation.coordinator@decc.gsi.gov.uk)

### **What happens after the consultation**

Responses should be submitted by 17 May 2013. The Government will consider responses to the consultation and make any appropriate amendments to the draft Smart Energy Code.

## 3. Transition to the enduring smart meter arrangements

### 3.1 The transition approach

1. The transition from the current energy market arrangements to one where the DCC is fully operational, providing smart metering services to its users, and where consumers are realising the benefits of smart metering systems, will involve a significant number of changes to be made across the energy industry. These will include changes to existing business systems, the roll-out of equipment and supporting infrastructure, and establishing the contractual arrangements between parties.
2. These changes need to be delivered in a way that ensures the industry can move through transition to a clear end-point and which includes all key participants with an interest in the smart metering programme, including the Government, Ofgem, the DCC and future users of the DCC's services.
3. The Government is developing a transitional approach in a way that engages with and utilises the expertise of these participants. This work is being finalised, through ongoing engagement with the key stakeholders who will play a part during transition. Section 3.2 of this document sets out the principles the Government seeks to establish during this phase of the Programme's delivery.
4. In order for the transition approach to work, it needs to be supported by a fit-for-purpose regulatory framework. Where necessary, it may need to be capable of being amended quickly in order to resolve issues which emerge during the course of transition. This consultation sets out details of, and seeks views on, proposals to include a mechanism to temporarily amend SEC content for transitional purposes, as part of proposals for a 'Transition Section X' in the SEC. This incorporates what was section L of the draft SEC published for consultation in November last year<sup>1</sup>.

### 3.2 Moving from a Programme-led to an industry-led governance process

5. To date, design and issue resolution activities have been managed by a single central Programme under the direction of DECC and utilising industry expertise through working groups and consultation. During transition, the SEC will be designated, following the award of the DCC's licence, and from this point other parties beyond Government will assume responsibility for the delivery and implementation of some elements of the design. All stakeholders will have an interest in the development of the smart metering design and how new or amended design elements will be introduced in the regulatory framework.

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<sup>1</sup> [www.gov.uk/government/consultations/smart-energy-code-stage-1](http://www.gov.uk/government/consultations/smart-energy-code-stage-1)



6. In the enduring arrangements once transition is complete, this interest would be served through the operation of the SEC Panel and its working groups, overseen by the Authority, without involvement from Government. In the transitional period, it is likely that there will be a move from a DECC-led governance structure to one led by industry (SEC Panel), with regulatory oversight from the Authority.
7. The Programme is currently working with the industry (via the Foundation Strategy Group), and with Ofgem to consider transitional governance. Whilst details are still being developed, the Government expects that a transitional governance structure of some composition will need to be established, incorporating relevant parties, to manage risks and resolve issues that will arise as a consequence of implementing new processes and services within the transitional period.
8. The Government expects that this governance structure will also oversee the design of emerging detail to be included in the SEC. This will include content that can only be completed sometime after the SEC has been introduced into the regulatory framework. Primarily this includes detail that will need to be developed once the successful DCC applicant has been chosen and awarded its licence.

## 4. Transitional Regulation

### 4.1 The purpose of transitional regulation

9. Irrespective of the final detail of the governance arrangements during transition, participants during the transitional period should have appropriate rights and obligations to move through transition in the most efficient and effective way. When the Government consulted on the initial drafting of the SEC, and the most recent version of the DCC Licence, thinking on transition was less developed and, whilst obligations were proposed for the DCC for transition, none were proposed for other parties with a role to play during this time. However, as noted above, progressing through transition is dependent on different parties working together; all will have a role to play. As such the Government considers it appropriate to place obligations on, and attribute roles to, other parties to support this process. At the same time, a regulatory mechanism to disapply certain enduring rights and obligations during the transitional period is required.
10. The section below sets out the Government's previous position on transitional regulation and how it is proposed that this is altered so transitional regulation fulfils its purpose. This includes placing transitional arrangements in the SEC, with corresponding alterations to the DCC Licence. It proposes obligations on SEC parties to support the process of moving through transition.

### 4.2 Transitional regulation covered in the November 2012 publications

11. The Government published two documents relating to the regulatory framework in November 2012:
  - the consultation on the draft legal text for Stage 1 of the SEC; and
  - the Government's response to its consultation on the draft DCC Licence.
12. Transitional matters were covered in both documents. In its consultation on Stage 1 of the SEC, the Government proposed transitional variations to provisions in the SEC. The DCC Licence consultation response set out a Smart Metering Transition Scheme (as described in Condition 13 of the Draft Licence), covering the period between licence award and commencement of DCC service provision. The document noted that transitional obligations may more appropriately be dealt with in the SEC.
13. Both documents made clear that the Government was still considering the approach to transition, specifically:
  - the process to move from the current set of market arrangements to the introduction of the DCC;
  - the testing of the DCC and prospective DCC User systems and processes; and
  - the commencement of the DCC's smart meter communications service.

14. The Stage 1 SEC consultation noted that “the transitional approach will need to be supplemented by a legal framework that gives effect to it.... The Government will consult further as necessary on the details of transition (including the changes to the legal framework that are required) in due course”.
15. Having further considered the nature of the transitional approach, this consultation document sets out the Government’s proposals for the legal framework to support it.

### 4.3 The legal framework during transition

#### 4.3.1 As proposed in November 2012 – transitional content in the SEC

16. In the Stage 1 SEC consultation the draft SEC included a specific section covering transitional matters, Section L, which included provisions which modified other parts of the SEC during transition. These provisions included:

- the switching off of SEC provisions relating to:
  - DCC services;
  - the provision of registration data; and
  - privacy
- amendments to the rules relating to provision of credit cover; and
- restrictions on the process for modifying the SEC during the transition period.

17. The Government is currently considering responses to the proposals set out in the November consultation. The expectation is that these transitional provisions will need to remain in the SEC and that Section X will include the drafting that was contained in Section L of the SEC as proposed in November 2012, with the Government’s forthcoming consultation response document covering this text.

#### 4.3.2 As proposed in November 2012 – modifying regulation during transition

18. As set out in the November publications, three mechanisms were described to allow participants the opportunity during transition to propose changes to the regulatory framework. These are summarised in the following table.

Mechanism to alter regulation during transition	Summary Description
<p><u>Proposed:</u>  <b>Modification Process (as amended during transition)</b></p>	<p>Under the Stage 1 SEC legal drafting SEC parties can raise modifications during the transitional period. If these are determined to be urgent (by the Authority), they can be progressed as per standard modification routes (and by a timetable determined by the Authority), with the Authority making a final decision on whether they should be approved.</p> <p>At any stage in this process, the Secretary of State can cancel any proposed modification.</p>

Mechanism to alter regulation during transition	Summary Description
<p><u>Already in place:</u> <b>Section 88 powers</b></p>	<p>The Energy Act 2008 gave the Secretary of State powers to amend existing licences and codes, and to create new licences and industry codes for the purpose of delivering the Smart Metering Implementation Programme. Any changes made under these powers, must be the subject of consultation and laid in Parliament for a 40 day period. Subject to successful completion of the Parliamentary process, the modifications can come into force.</p>
<p><u>Proposed:</u> <b>Powers to modify the regulatory framework during transition</b></p>	<p>Under DCC Licence condition 13, a ‘transition scheme’ would be created, under which it was proposed that the Secretary of State could, for the purposes of meeting a defined ‘scheme objective’, amend the DCC Licence, Energy Licence or any core industry document, following appropriate consultation with the Authority and industry.</p>

Proposed mechanisms by which the transitional regulatory framework would be amended (November 12)

### 4.3.3 Amending the regulatory framework for transition

19. As the approach to transition has developed, the Government now sees merit in amending and supplementing these provisions. In particular, it considers that the key transitional regulatory content should be set out in a transitional section of the SEC rather than a scheme created under the DCC Licence. Placing transitional arrangements in the SEC enables them to sit in one location across the regulatory framework, and means they can be neatly removed once transition is complete. Utilising the SEC’s contractual framework for transition also reduces the logistical and administrative burden of creating a separate contractual framework for transitional arrangements.

20. In addition, the Government considers other changes to both the DCC Licence and SEC are appropriate, including:

- amending the DCC Licence to introduce a new general interim objective on the licensee to support transition;
- describing the objective of transition in the SEC, and placing obligations on SEC parties to help in meeting it;
- enabling the designation of specific documentation into the SEC during the transitional period; and
- introducing a mechanism to make expedited changes to the SEC to enable transition.

21. The remaining sections of this chapter set out an approach for how this is best achieved through changes to the DCC Licence and the SEC and seeks views on these proposals.

### Transitional arrangements in the DCC Licence

22. The Government’s November 2012 response to the draft DCC Licence consultation explained that the Government was continuing to develop its

thinking with respect to transition arrangements and that the draft DCC Licence was likely to evolve further. As mentioned above, the Government now considers that transitional regulatory arrangements are more appropriately delivered through a transitional section of the SEC rather than a scheme created under the DCC Licence.

23. In order to align with the proposed framework for transition set out in this consultation a number of changes to the draft licence will be required, in particular changes in part to Condition 5 (the General Objectives of the DCC) and Condition 22 (the Smart Energy Code) and in whole to Condition 13 (Arrangements relating to the Transition Objective).
24. Condition 5 of the DCC Licence (the General Objectives of the DCC) will include a new Interim General Objective for the DCC. This will require the DCC to contribute, by all appropriate means within its power, to a full, timely, efficient, economical and secure transition process leading to the Completion of Implementation (see section X.1 below). The purpose of this new objective is to reflect the central, vital role that the DCC will undertake during transition and provide a specific requirement to undertake appropriate transitional activities in a timely fashion. The Government believes that framing the DCC's duty with respect to securing transition as an objective is more appropriate than drafting it as an obligation. This is because objectives seek to inform the overall behaviour and ethos of the DCC. The Government welcomes views on this approach.
25. Condition 13 (Arrangements relating to the Transition Objective) will provide for arrangements relating to this new Interim General Objective. It introduces the concept of the 'Transition Objective', which is the achievement of an efficient, economical, co-ordinated, timely, and secure process of transition to the Completion of Implementation (see also section X.1 of the SEC, discussed below). Condition 13 also makes transitional arrangements with respect to the SEC (allowing for the procedures proposed in this consultation) and will require the DCC to prepare, following consultation with SEC Parties, a transition plan for the approval of the Secretary of State. This plan will cover the trialling, commencement, system integration testing, and user integration testing of any of the systems, processes, and procedures that are intended to comprise any part or the whole of the SEC Arrangements.
26. A substantially redrafted Part G in Condition 22 (the Smart Energy Code) will provide for the incorporation of documents into the SEC. This will include the ability to bring the significant, widely consulted upon Smart Metering Equipment Technical Specifications (SMETS) and Communications Hub Technical Specifications (CHTS) into the SEC, as well as other technical, procedural or associated documents as required. In addition, a new Part C recognises the paramount need for the DCC and SEC Parties to achieve the Transition Objective and links back to the transitional arrangements proposed for the SEC in Condition 13.
27. Annex B contains the revised proposed drafting for Conditions 5 and 13 of the DCC licence. It also contains those sections (Parts C and G) of Condition 22 that have been materially revised since the November draft DCC licence publication.

The remainder of Condition 22 has not been significantly modified since that publication and so for brevity these parts have been removed

### **New transitional arrangements in the Smart Energy Code**

28. Government expects that Section X of the SEC will contain the elements of the SEC which were consulted on as Section L of the draft SEC published in November, incorporating where appropriate the views of stakeholders. This content, currently being considered by Government in parallel with the development of the new transitional elements of the SEC discussed below, will be explained in the forthcoming consultation response document, and therefore will not be discussed in detail in this document.

#### *Describing the objective of transition in the SEC, and placing obligations on SEC parties to help in meeting it*

29. The SEC acts as the contractual framework between the DCC and DCC Users. As noted in section 4.1, the purpose of the transitional regulation is to support the transition approach, and ensure that the framework enables all parties to work together to progress to the enduring arrangements. The DCC cannot deliver the enduring smart metering solution without working with its Users (all of whom will be SEC parties), to ensure processes and systems are tested and function properly. The Government therefore proposes placing obligations on SEC Parties to take steps to facilitate achievement of a transitional objective, and support efforts to move through transition to deliver the enduring smart metering solution.

#### *Including a mechanism to designate specific documents as part of the SEC*

30. As set out above, it is proposed that specific provisions are included to enable the Secretary of State to introduce technical and detailed procedural documents into the SEC, at some time during the transitional period. This includes the Smart SMETS and the CHTS, and will enable those documents which the Programme is finalising to be introduced into the SEC in a timely manner. As well as the amendment to Condition 22 of the DCC Licence discussed above, this power would be set out in Section X of the SEC. It would be limited to only those documents which contained detailed technical or procedural information which is linked to or gives detail to a right or obligation in the SEC (or in the case of SMETS an obligation in licences), and not to create any fundamental rights and obligations on any SEC Party.
31. Following their incorporation, each document will be subject to modification provisions included in the SEC, including any limitation on the enduring modifications process during the transitional period. Prior to designating any dates for the incorporation of these documents into the SEC, the Secretary of State must consult the Authority, the SEC Panel and the SEC Parties on the proposed date and content of the document to be designated at that date.

#### *Making expedited changes to the SEC*



32. The previously proposed Transition Scheme in the DCC Licence would have enabled the Secretary of State to make limited changes to the legal framework during transition. The intention of this was to enable timely changes to be made to the regulatory framework where issues emerged during the transitional period to avoid undue delay to the delivery of live services. The Government proposes replacing this with a mechanism in the SEC. This would be similarly limited, and further constrained by only applying to the SEC and not to other licences or codes. It would be linked to the transitional objective (defined in the summary of legal drafting below) and is not proposed to endure beyond the point at which transition is complete. Further, any changes made using the mechanism are required to be explicitly time-limited and in any event will not continue beyond the transitional period.

#### *Examples of when the SEC may be amended using expedited powers*

33. The transitional content of the SEC is proposed to sit in one section – Section X. Included in Section X are examples of how the new temporary modification mechanism might be used. These are not designed to be an exhaustive list. One of the principle requirements for an expedited process to change the SEC is as an emergency mechanism to ensure that the SEC is fit for purpose and transition is not impeded by an unduly lengthy amendment process: based on lessons learnt in previous change programmes such as NETA, it is expected that there will be as-yet unknown issues which may need to be dealt with quickly.
34. The examples aim to clarify those circumstances where, during transition, it may be necessary to introduce changes at short notice. These include introducing requirements relating to system testing and in setting up DCC systems.
35. This modification process would sit alongside other mechanisms to modify the SEC (discussed in section 4.4). It must be stressed that no changes would be made using this, or any other power, without input from stakeholders. As with the previously contemplated Transition Scheme in the DCC Licence, and with Section 88 powers under the 2008 Energy Act, the use of the proposed expedited mechanism in the SEC requires consultation and a reasonable period for representations and objections to be made.

#### **4.3.4 Translation into legal drafting**

36. Legal drafting of the new transitional arrangements in Section X of the SEC is included at Annex A, and a commentary of the new legal text is included below.

#### **Section X1 – The Transitional Objective**

37. X1.1 of the Transition Schedule sets out that the content of Section X overrides the other sections of the SEC. Sections X1.2 and X1.3 define the objective of transition for the purposes of the transition schedule, which is stated as the timely and efficient ‘completion of implementation’. Once completion of implementation is deemed to have occurred, Section X of the SEC will be removed to leave the enduring rights and obligations on the DCC and SEC Parties. The precise mechanism for determining completion of implementation, and in particular who takes this decision, is still under consideration. This could

be a decision taken by the Government, by Ofgem or the industry collectively, for example through a modification to the SEC to move to the enduring arrangements. The legal drafting for this mechanism included in this document describes a role for the Secretary of State in determining completion of implementation, and views on this approach are welcome.

38. In the draft text for Section X1.3 completion of implementation is defined as an event which happens when:
- the documents listed in Section X5 have been incorporated into the SEC;
  - that the key material provisions in the code outside Section X apply without variation; and
  - that the DCC and Licenced SEC Parties are able to perform their material obligations and exercise their rights.
39. Section X1.4 makes clear that the process to determine that Completion of Implementation has been met requires consultation with the Panel, Parties and the Authority.
40. Section X1.5 sets out that Section X automatically ceases to have effect once 'completion of implementation' is achieved, or by October 2018, which is the date when the Secretary of State's powers under Section 88 of the Energy Act 2008 expire, whichever comes first.

### **Section X1 – General obligations on SEC Parties**

41. Section X1.6 to X1.8 set out general obligations on SEC Parties during transition. These are:
- for Parties to take reasonable steps to facilitate achieving the transitional objective;
  - for Parties to offer reasonable assistance and cooperation to each other and the Panel to meet the transitional objective; and
  - that Parties must not do anything that is intended to, or might be expected to, hinder or frustrate achieving the transitional objective.
42. Sections X1.9 and X.10 set out that Parties must provide data upon request to the Secretary of State, in order to enable an assessment of progress towards meeting the transitional objective, and that Parties must inform the Secretary of State if it is aware of anything that might be expected to hinder or frustrate achieving the transitional objective.
43. Text in X1 also sets out that, for the purposes of Parties being required to offer 'reasonable' assistance to each other during transition, where there is a dispute over what is 'reasonable', the Secretary of State will make a final determination.

### **Sections X2 to X3.1 – transitional variation of the SEC**

44. Text from Sections X2 to X3.1 in the legal drafting is a replication of text in section L1 of the draft Stage 1 SEC consultation published in November 2012.



### **Section X3 – switching on provisions following designation**

45. The remaining text in Section X3 clarifies that, when the Secretary of State designates that a section of the SEC takes effect (i.e. switching on a section of the SEC), they may vary that section of the SEC for the purposes of meeting the Transitional Objective. As with any mechanism to amend the SEC proposed in Section X, this can only be done following an appropriate period of consultation.

### **Section X4 – set up of Governance**

46. Section X4 replicates text from section L2 of the Stage 1 SEC published in November 2012 and covers the amended governance arrangements proposed during the transitional period.

### **Section X5 – Incorporation of Certain Documents into this Code**

47. Section X5 sets out the mechanism to incorporate additional technical documents into the Code consistent with the currently proposed licence drafting in this area.
48. Each document introduced via this power will be technical in nature and designed to implement detailed elements required for the successful completion of implementation. The references to the insertion of these documents become immediately superfluous once the documents are introduced, and therefore the powers to insert them are included in the transition schedule, as opposed to any other section of the SEC, and are deleted from the SEC once the transitional objective is met.

### **Section X6 – Transitional Variations**

49. Section X6 sets out the proposed new mechanism to enable the Secretary of State to make modifications to the SEC for the purposes of transition.
50. X6.1 notes that this mechanism would sit alongside, and not supersede the transitional urgent modification process.
51. X6.2 would enable the Secretary of State to vary any section of the code for the purposes of meeting the transitional objective defined in X1. X6.3 stipulates that every variation given effect using this mechanism must include a date by which the change would cease to apply. This ensures that the mechanism is not able to be used to deliver enduring changes. X1.5 also makes it clear that modifications under section X fall away with section X.
52. X6.4 and X6.5 set out examples of how these powers could be used, giving as examples:
- alterations to support testing processes,
  - the further limitation of liabilities during transition, and
  - that the Secretary of State may in some cases determine disputes.

53. Finally, X6.6 confirms that any changes made using this mechanism could only be made following appropriate consultation with stakeholders.

### 4.3.5 Linking the SEC Objectives to transition

54. To complement the proposed alterations to condition 22 of the DCC Licence, which sets out the paramount importance of the transition objective, the Section of the SEC covering governance, Section C, includes new drafting relating to an interim ‘transition objective’ for the SEC, which sits alongside the general SEC objectives. It sets out that the General SEC objective should be read and given effect subject to the need to achieve the transition objective. This new drafting is also included in Annex A below.

Consultation Questions	
1.	<b>Do you agree with the general obligations on SEC Parties set out in section X1? Please provide a rationale for your views.</b>
2.	<b>Do you agree with the proposal to use Section X5 of the SEC to enable the incorporation of technical subsidiary documentation into the SEC? Please provide a rationale for your views.</b>
3.	<b>Do you agree with proposals to include, in Section X of the SEC, a mechanism to make expedited modifications to the SEC for transitional purposes?</b>
4.	<b>Do you agree that the DCC’s Licence duties with respect to transition are better captured through an interim objective rather than discrete obligations?</b>
5.	<b>Please provide any further comments you have on the proposed legal drafting.</b>

## 4.4 How the SEC could be modified during transition

55. As proposed in the legal drafting set out in Section X5 and described in paragraph 46, the Secretary of State would be able to introduce specified new design elements into the SEC, for example the transfer of SMETS, during the transition period. For all other changes during transition, including the proposed power specified in Section X6, there would be three mechanisms by which the SEC could be changed:

- **An industry-led modification process**, as detailed in Section D of the November 2012 consultation draft of SEC 1 and as varied during Transition

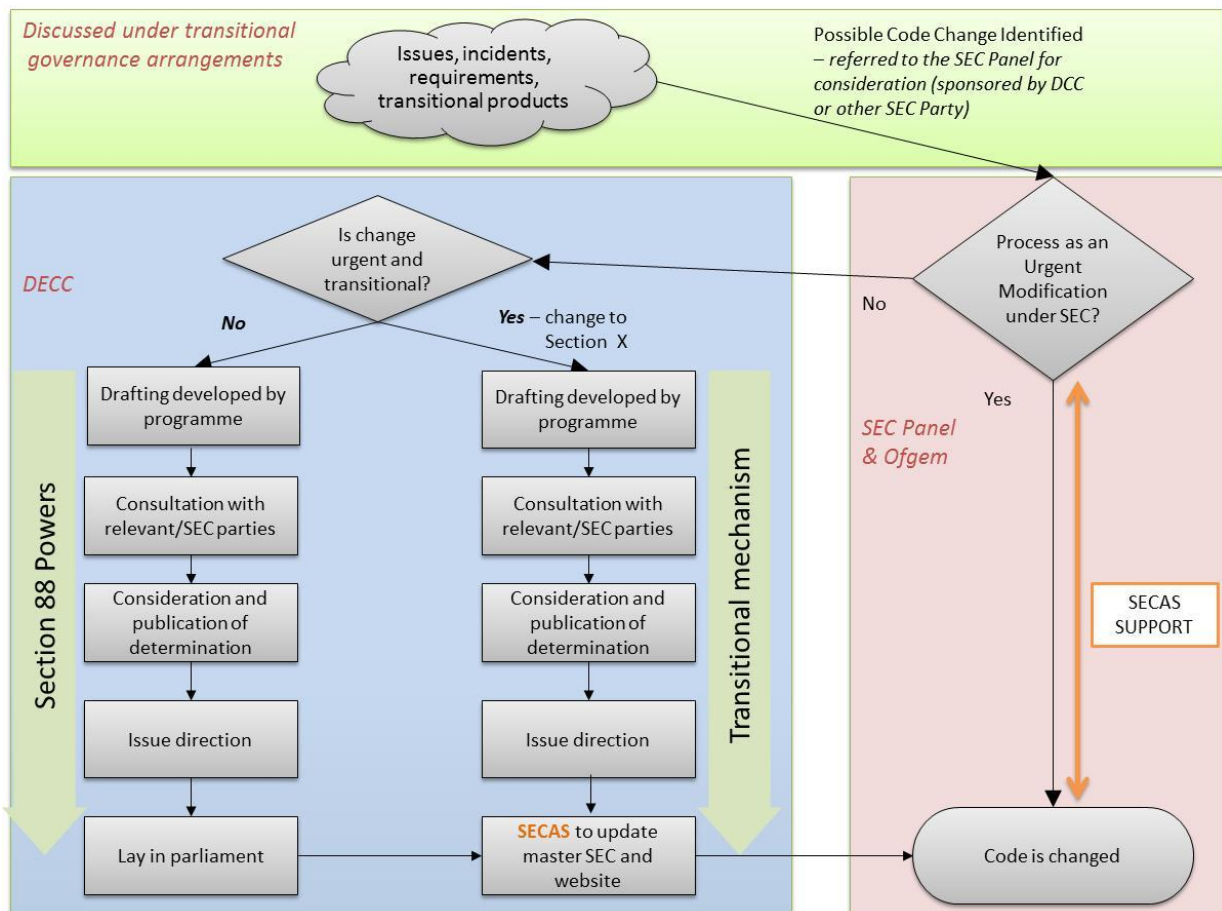
(detailed in Section L of the November 2012 consultation draft of SEC 1). This may be used to amend both the enduring SEC and the SEC during transition;

- **Section 88 powers** whereby the Secretary of State directs a modification. Changes made under this power, must be the subject of consultation and laid in Parliament for a 40 day period (though they cannot be laid in recess and recess periods do not count towards this 40 day period). These powers may be used up to October 2018 to amend the enduring SEC including the Transition Section; and
- **The new proposed transitional modification mechanism**, whereby the Secretary of State consults on a modification to the SEC, makes a determination and directs a modification to the Code. This transitional mechanism may only be used where it is necessary or expedient to do so in order to facilitate achievement of the Transition Objective. Enduring change cannot be introduced through this route.

56. These three mechanisms provide different routes to reach similar ends: amended or new SEC content, necessary to enable transition, which has been considered by relevant industry parties before it is introduced. The Government expects such changes may be needed to resolve issues which arise during testing, or introduce transitional products, such as testing plans. It is not possible to know precisely what these issues will be, or the extent to which they affect different parties, or whether there is a shared view on how to resolve them. However, for each potential change that arises during transition, it will be necessary to determine which of the mechanisms set out above would be most appropriate.
57. The Government is of the view that the approach to changing the SEC for transitional purposes should depend upon the nature of the change and its associated urgency. It may be that in the first instance the SEC Modifications route, managed by the SEC Panel, supported by the SEC Administrator and Secretariat, and determined by the Authority, would be the first mechanism for making any urgent changes needed to the SEC during transition. If it was the case that this process would not enable a change to be made, either because there was an issue regarding how quickly it could be resolved, or whether it satisfied the criteria to be considered urgent, the change to the SEC could then be progressed using powers reserved to the Secretary of State.
58. In these instances, the Government would initially seek to use section 88 powers to make any change. It would only seek to use the transitional modification mechanism where changes were minor, or where section 88 timescales would prove prohibitive, and adversely impact on the delivery of the programme.
59. If the expedited power in the SEC was used to amend the Transition Schedule, the Programme would follow a similar process to that which is used for change via Section 88 powers. This would include appropriate consultation on a modification to the SEC, a determination based on responses and then issuing an instruction that the Code should be changed.

60. This potential solution for determining how changes to the SEC would be delivered is set out in the diagram below. This represents one option for how the governance of transitional regulation would function in the transition approach.

Consultation Questions	
6.	Comments are invited on the proposed approach to determining how to change the SEC set out in this section



#### 4.5 Responding to this consultation and next steps

61. This consultation is open for 4 weeks, and will close on 17 May 2013. The Government will publish a response and finalised drafting of Section X prior to the designation of Stage 1 of the SEC.

# Annex A: The Transition Schedule (Section X) of the SEC

## **X1 GENERAL PROVISIONS REGARDING TRANSITION**

### **Overriding Nature of this Section**

X1.1 The provisions of this Section X shall apply notwithstanding, and shall override, any other provision of this Code.

### **Transition Objective**

X1.2 The objective to be achieved pursuant to this Section X (the “**Transition Objective**”) is the efficient, economical, co-ordinated, timely, and secure process of transition to the Completion of Implementation.

X1.3 The “**Completion of Implementation**” shall occur on the date designated for the purpose of this Section X1.3 by [the Secretary of State], once [the Secretary of State] is of the opinion that:

- (a) the documents referred to in Section X5 and that [the Secretary of State] considers material to the implementation of this Code have been incorporated into this Code in accordance with that Section;
- (b) the provisions of this Code that [the Secretary of State] considers material to the implementation of this Code apply in full without any variation pursuant to this Section X (or, where any such variations do apply, the requirements of Sections X1.3(c) will still be met despite such variations ending in accordance with Section X1.5(a)); and
- (c) each Party that holds an Energy Licence is (or would be had such Party acted in accordance with Good Industry Practice) reasonably able (on the assumption that such Party acts in accordance with Good Industry Practice) to perform its obligations, and to exercise its rights, under this Code to the extent that [the Secretary of State] considers such obligations or rights material to the implementation of this Code.

X1.4 Before designating a date for the purpose of Section X1.3, the Secretary of State must consult the Authority, the Panel and the Parties in respect of the proposed date. Such consultation must allow such period of time as the Secretary of State considers appropriate in the circumstances within which representations or objections may be made.

#### **Ending of the Application of this Section X**

X1.5 With effect from the earlier of:

- (a) Completion of Implementation; or
- (b) 31 October 2018,

this Section X (and any variations to this Code provided for in, or made by directions pursuant to, this Section X) shall cease to apply (save as set out in Section X5.5), and this Code shall automatically be modified so as to delete this Section X.

#### **General Obligations**

X1.6 Each Party shall take all reasonable steps to do all such things as are within its power and necessary or expedient in order to facilitate achievement of the Transition Objective.

X1.7 Each Party shall provide such reasonable co-operation and assistance to the other Parties and to the Panel as may be necessary to facilitate compliance with the provisions of this Section X, and with any variations to this Code provided for in (or made by directions pursuant to) this Section X.

X1.8 Without prejudice to its legal rights, no Party shall take any step, or exercise any right, which is intended to (or might reasonably be expected to) hinder or frustrate the achievement of the Transition Objective.

#### **Information**

X1.9 Each Party shall provide to the Secretary of State, in such manner and at such times as the Secretary of State may require, such Data as the Secretary of State may require in order to enable the Secretary of State to assess progress towards (and to facilitate)

achievement of the Transition Objective.

X1.10 If a Party is aware of any matter or circumstance which it considers will (or is likely to) hinder or frustrate the achievement of the Transition Objective, that Party shall promptly inform the Secretary of State of such matter or circumstance.

X1.11 Relates to elective communications services to be covered in the forthcoming Government response document to the SEC 1 legal drafting consultation

### **Disputes**

X1.12 In the event of any dispute between the Parties (or between the Panel and any Party) as to whether a particular Party is obliged to undertake a particular activity pursuant to Section X1.6 to X1.11 (inclusive), a Party (or the Panel) may refer the matter to the Secretary of State (or, where designated by the Secretary of State for such purposes, the Panel or the Authority) for determination (which determination shall be final for the purposes of this Section X1).

### **Modification of this Section X**

X1.13 The variations to this Code provided for in, or made by directions pursuant to, this Section X shall not constitute modifications that should be subject to Section D (Modification Process). For the avoidance of doubt, this Section X shall be capable of being modified under Section D (Modification Process).

### **SECCo**

X1.14 The provisions of this Section X1 (and the definitions used in this Section) shall apply to SECCo as if SECCo was a Party.

Section X2 and X3.1 will replicate L1 of the draft Stage 1 SEC published in November 2012 to be covered in the forthcoming Government response document to the SEC 1 legal drafting consultation

## X2 EFFECTIVE PROVISIONS AT DESIGNATION

## X3 PROVISIONS TO BECOME EFFECTIVE FOLLOWING DESIGNATION

X3.2 to X3.5 is new text - for consultation

### **Provisions to be Effective Subject to Variations**

- X3.2 In designating the date from which a provision of this Code is to be effective for the purpose of this Section X3, the Secretary of State may direct that such provision is to apply subject to such variation as is necessary or expedient in order to facilitate achievement of the Transition Objective (which variation may or may not be specified to apply until a specified date).
- X3.3 Where the Secretary of State directs that a provision of this Code is to apply subject to such a variation, the Secretary of State may subsequently designate a date from which the provision is to apply without variation.
- X3.4 Where the Secretary of State directs that a provision of this Code is to apply subject to more than one such variation, then the Secretary of State may:
- (a) designate different dates from which each such variation is to cease to apply; and/or
  - (b) designate a date from which one or more such variations are to cease to apply (without prejudice to the continued application of the other such variations).

### **General**

- X3.5 Before designating any dates and/or making any directions for the purpose of this Section X3, the Secretary of State must consult the Authority, the Panel and the Parties in respect of the proposed date and/or the draft direction (as applicable). Such consultation must allow such period of time as the Secretary of State considers appropriate in the circumstances within which to make representations or objections with respect to the proposed date and/or the draft direction (as applicable).



Section X4 replicates LX of the draft Stage 1 SEC published in November 2012 to be covered in the forthcoming Government response document to the SEC 1 legal drafting consultation

#### X4 GOVERNANCE SET-UP ARRANGEMENTS

#### X5 INCORPORATION OF CERTAIN DOCUMENTS INTO THIS CODE

##### **Smart Metering Equipment Technical Specification**

X5.1 The document designated by the Secretary of State as the Smart Metering Technical Specification under the DCC Licence shall, from the date designated by the Secretary of State for the purpose of this Section X5.1, be incorporated into this Code as the Schedule specified in such designation.

##### **Communications Hub Technical Specification**

X5.2 The document designated by the Secretary of State as the Communications Hub Technical Specification under the DCC Licence shall, from the date designated by the Secretary of State for the purpose of this Section X5.2, be incorporated into this Code as the Schedule specified in such designation.

##### **Other Technical Specifications**

X5.3 Each of the technical specifications and procedural or associated documents designated by the Secretary of State under paragraph 26(c) of Condition 22 of the DCC Licence shall, from the relevant date designated by the Secretary of State for the purpose of such document and this Section X5.3, be incorporated into this Code as the Schedule or SEC Subsidiary Document specified in such designation.

##### **Supplementary Provisions**

X5.4 Paragraph 28 of Condition 22 of the DCC Licence includes a power for the Secretary of State to specify supplementary, incidental, consequential, governance or other provisions which are to have effect in this Code from the date designated for such purpose by the Secretary of State. This Code shall automatically be amended so as to

include such provisions with effect from such date.

### **General**

- X5.5 The incorporation of documents into this Code pursuant to this Section X5 (and any provisions made pursuant to Section X5.4) shall not constitute a modification that should be subject to Section D (Modification Process). The incorporation of documents into this Code pursuant to this Section X5 (and any provisions made pursuant to Section X5.4) shall not constitute a variation of this Code that is time limited in accordance with Section X1.5 (and such documents and provisions shall remain part of this Code notwithstanding the deletion of this Section X on Completion of Implementation).
- X5.6 The documents incorporated into this Code pursuant to this Section X5 (and any provision made pursuant to Section X5.4) shall, from the date of their incorporation, be subject to modification in accordance with the provisions of this Code.
- X5.7 Before designating any dates for the purpose of this Section X5, the Secretary of State must consult the Authority, the Panel and the Parties in respect of the proposed date. Such consultation must allow such period of time as the Secretary of State considers appropriate in the circumstances within which to make representations or objections with respect to the proposed date to be designated. The requirement for consultation may be satisfied by consultation before, as well as after, the designation of this Code.

## **X6 TRANSITIONAL VARIATIONS**

### **Status of this Section X6**

X6.1 This Section X6 is without prejudice to Section D (Modification Process), as (where applicable) varied pursuant to Section X2.

### **Secretary of State’s Power to Vary for Purposes of Transition**

X6.2 Where it is necessary or expedient to do so in order to facilitate the achievement of the Transition Objective, the Secretary of State may direct that such provisions of this Code as the Secretary of State may specify are to apply subject to such variations as the Secretary of State may specify.

X6.3 Such a direction shall only be validly made if it specifies a date or dates from which the specified provision or provisions shall apply without variation. The Secretary of State may subsequently designate an earlier date from which the relevant provision is to apply without variation.

X6.4 The purposes for which such directions may be made includes purposes relating to the trialling, testing, set-up, integration, commencement and proving of the DCC Systems and the User Systems and the processes and procedures relating to the SEC Arrangements.

X6.5 The variations referred to in Section X6.2 may suspend the application of specified provisions of this Code and/or specify additional provisions to apply in this Code, and may include variations which:

- (a) add additional limitations on Liability provided for in this Code;
- (b) provide for indemnities against Liabilities to which a Party might be exposed; and/or
- (c) provide for the referral to, and final determination by, the Secretary of State (or, where designated by the Secretary of State for such purposes, the Panel or the Authority) of certain Disputes.

## **General**

X6.6 Before designating any dates and/or making any directions for the purpose of this Section X6, the Secretary of State must consult the Authority, the Panel and the Parties in respect of the proposed date and/or the draft direction (as applicable). Such consultation must allow such period of time as the Secretary of State considers appropriate in the circumstances within which representations or objections may be made.

## **SECTION C – GOVERNANCE**

### **C1 SEC OBJECTIVES**

#### **Transition Objective**

C1.2 During the period prior to the Completion of Implementation, the General SEC Objectives are (in accordance with Condition 22 of the DCC Licence) to be read and given effect subject to the paramount need for the Parties to achieve the Transition Objective in accordance with Condition 13 of the DCC Licence and Section X (Transition).

# Annex B: Revised sections of the DCC Licence

## Condition 5. General Objectives of the Licensee

### Introduction

- 5.1 The purpose of this condition is to establish the General Objectives of the Licensee under this Licence and the Licensee's duties with respect to them.
- 5.2 This condition has effect in accordance with and subject to the provisions of Parts A and B of Condition 13 (Arrangements relating to the Transition Objective).
- 5.3 Subject to any variation that may be directed by the Secretary of State under Condition 13, the General Objectives of the Licensee:
- (a) initially comprise the Interim General Objective (as set out in Part A below) and the Enduring General Objectives (as set out in Part B below), taken as a whole, during the period running from Licence Commencement Date to the Completion of Implementation; and
  - (b) thereafter comprise the Enduring General Objectives only.

### Part A: Interim General Objective of the Licensee

- 5.4 The Interim General Objective of the Licensee is to contribute, using all appropriate means within its power, to the achievement of a full, timely, efficient, economical, and secure Completion of Implementation in accordance with such requirements as may be imposed on the Licensee under or by virtue of Part E of Condition 13.
- 5.5 For the purposes of paragraph 5.4, the Interim General Objective includes a duty:
- (a) to co-ordinate the activities, systems, and procedures of SEC Parties and, if applicable, SECCo Ltd in such manner and to such extent as may be necessary with respect to the requirements to which that paragraph refers; and
  - (b) to undertake or sponsor such investigation or research (at the Licensee's own cost unless expressly specified to the contrary) as the Secretary of State may from time to time direct for purposes connected with those requirements.
- 5.6 This Part A will be of no further effect in, and may be treated as omitted from, this condition as from the Completion of Implementation (but see paragraph 5.7).
- 5.7 Despite paragraph 5.6, paragraph 5.5(b) remains in operation until 31 October 2018 even if the Completion of Implementation occurs before that date.

## Part B: Enduring General Objectives of the Licensee

- 5.8 The Enduring General Objectives of the Licensee are to consist of the First Enduring General Objective and the Second Enduring General Objective.
- 5.9 The First Enduring General Objective of the Licensee is to carry on the Mandatory Business in the manner that is most likely to ensure the development, operation, and maintenance of an efficient, economical, co-ordinated, and secure system for the provision of Mandatory Business Services under the Smart Energy Code.
- 5.10 The Second Enduring General Objective of the Licensee is to carry on the Mandatory Business in the manner that is most likely to facilitate:
- (a) effective competition between persons engaged in, or in Commercial Activities connected with, the Supply of Energy under the Principal Energy Legislation;
  - (b) such innovation in the design and operation of Energy Networks as will best contribute to the delivery of a secure and sustainable Supply of Energy under the Principal Energy Legislation; and
  - (c) the reduction (by virtue of benefits arising from the provision of Value Added Services) of the charges payable for Mandatory Business Services.

## Part C: Paramount position of the Mandatory Business

- 5.11 It is the duty of the Licensee under this Licence to carry on the Mandatory Business at all times in accordance with the General Objectives of the Licensee.
- 5.12 In discharging that duty, the Licensee must have regard to the General Objectives in the round, weighing them as it thinks appropriate in each particular case.
- 5.13 The Licensee must not carry on any activity, or any combination of activities, under or pursuant to the Permitted Business in a manner that prejudices or impairs, or would be likely to prejudice or impair, its ability to carry on the Mandatory Business at all times in accordance with the General Objectives of the Licensee.

## Part D: Interpretation

- 5.14 For the purposes of this condition only:

**Completion of Implementation** is to be read in accordance with the meaning that is given to that term in the Smart Energy Code, and will be deemed to have been achieved on whichever of the following dates occurs first:

- (a) the date designated for such purpose by the Secretary of State pursuant to the relevant provisions of the Smart Energy Code (provided that all of the Conditions of this Licence are in full force and operation at that date and that the Licensee is reasonably able to comply with them with effect from that date); or
- (b) where the proviso to sub-paragraph (a) is not satisfied, such later date (being the date on which that proviso is in fact satisfied) as is designated for such purpose under this condition by the Secretary of State; or

(c) 31 October 2018.

**Enduring General Objectives** has the meaning given to that term in paragraph 5.8

**Interim General Objective** has the meaning given to that term in paragraph 5.4.

**First Enduring General Objective of the Licensee** has the meaning given to that term in paragraph 5.9.

**Second Enduring General Objective of the Licensee** has the meaning given to that term in paragraph 5.10.

## **Condition 13. Arrangements relating to the Transition Objective**

### **Introduction**

- 13.1 This condition enables the Secretary of State to make appropriate provision under this Licence and the Smart Energy Code for the purpose of facilitating the achievement of an efficient, economical, co-ordinated, timely, and secure process of transition to the Completion of Implementation (“the Transition Objective”).
- 13.2 The Licensee must treat this condition as paramount in the event of any conflict between its provisions and the requirements imposed on the Licensee by any other condition of this Licence, but this condition will be of no further effect in, and may be treated as omitted from, this Licence as from the Completion of Implementation.

### **Part A: Arrangements with respect to the Interim General Objective**

- 13.3 The Secretary of State may, in pursuance of the Transition Objective, by direction to the Licensee provide for Part A of Condition 5 (which establishes an Interim General Objective for the Licensee):
- (a) to be suspended from operation in this Licence in such manner, and in such circumstances, as may be specified in or determined by reference to criteria set out in the direction; or
  - (b) where it is for the time being so suspended, to be brought back into operation in this Licence in such manner, and in such circumstances, as may be so specified or determined.
- 13.4 A direction under paragraph 13.3:
- (a) may only be given with respect to the whole of Part A of Condition 5; and
  - (b) may not be so framed as to enable that Part A to remain in operation in this Licence after 31 October 2018.

### **Part B: Arrangements with respect to Enduring General Objectives**

- 13.5 The Secretary of State may, in pursuance of the Transition Objective, by direction to the Licensee provide for any provision of Part B of Condition 5 (which establishes Enduring General Objectives for the Licensee):
- (a) not to have effect in this Licence until brought into operation in such manner, and in such circumstances, as may be specified in or determined by reference to criteria set out in the direction; or
  - (b) to be suspended from operation in this Licence in such manner, and in such circumstances, as may be so specified or determined; or



- (c) where it is for the time being so suspended, to be brought back into operation in this Licence in such manner, and in such circumstances, as may be so specified or determined.

13.6 A direction under paragraph 13.5 may not be so framed as to prevent a provision of Part B of Condition 5 from having effect in this Licence after 31 October 2018.

### **Part C: Procedural and other requirements with respect to directions**

13.7 Before issuing a direction under either of Parts A or B above, the Secretary of State must consult the Licensee, the Authority, and SEC Parties.

13.8 The Secretary of State must have due regard to the results of the consultation under paragraph 13.7, and give reasons for his decisions in relation to those results.

13.9 Any direction issued under Part A or Part B must be published by the Licensee on its Website along with an explanation of how it affects the Licensee's activities.

### **Part D: Preparation of plans for purposes of trialling and testing**

13.10 Pursuant to the Transition Objective, the Licensee, when and to the extent requested by the Secretary of State, must:

- (a) prepare a plan (or plans), after consulting with SEC Parties, for the trialling, commencement, system integration testing, and user integration testing of any of the systems, processes, and procedures that are intended to comprise any part or the whole of the SEC Arrangements;
- (b) submit any such plan, by such date as is specified by the Secretary of State, for his approval of the plan's proposals; and
- (c) where the plan is so approved (with or without amendment by the Secretary of State), do all such things as are within the Licensee's power for the purpose of implementing the plan, including:
  - (i) co-ordinating the activities of SEC Parties and, where applicable, of SECCO Ltd and any other relevant persons with a view to achieving that purpose in accordance with the required timescales, and
  - (ii) initiating such modification procedures as may be permitted under or pursuant to the Transitional Provisions (see Part E below) and that are necessary to facilitate and secure the achievement of such purpose.

### **Part E: Arrangements with respect to the Smart Energy Code**

13.11 This Part E applies with respect to the scope and contents of the Smart Energy Code ("the SEC") and should be read in conjunction with, in particular, the provisions of Parts C and D of Condition 22 of this Licence (The Smart Energy Code).

13.12 The Secretary of State may, in pursuance of the Transition Objective, and on or after the date on which the SEC is designated by him for the purposes of Condition 22, require and ensure that the SEC is to provide:

- (a) for certain provisions of the SEC (“the Transitional Provisions”) to apply in relation to certain matters in spite of, and to override, any other provision of the SEC on a transitional basis;
  - (b) for the Licensee to provide such reasonable co-operation and assistance to the SEC Panel and SEC Parties, and vice versa, as may be necessary to facilitate compliance with the Transitional Provisions while they so apply; and
  - (c) for the Transitional Provisions to cease to so apply as from the Completion of Implementation.
- 13.13 Pursuant to paragraph 13.12 and the Transition Objective, the SEC may, in particular, include Transitional Provisions for or in connection with any or all of:
- (a) the referral to, and determination by, the Secretary of State (or such person as he may designate for such purpose) of any disputes arising between SEC Parties, or any categories of such parties, in connection with the operation or application of the Transitional Provisions;
  - (b) the adoption by the Licensee, subject to Part I of Condition 16 (Procurement of Relevant Service Capability), of Energy Supplier Contracts within the meaning of Part J of that condition; and
  - (c) the provision to the Licensee by certain SEC Parties, at such times and to such extent as may be specified in the SEC, of Registration Data within the meaning given to that term in the SEC.
- 13.14 Pursuant to paragraph 13.12 and the Transition Objective, the SEC may, in particular, also include Transitional Provisions for or in connection with any or all of:
- (a) the variation by the Secretary of State of such provisions of the SEC as may be specified in the SEC, including variations that will have the effect of suspending specified provisions or of applying additional provisions;
  - (b) the designation of the date from which any specified provision of the SEC is to apply and, if that provision has been subject to any necessary transitional variation, the subsequent designation of the date from which the provision is to apply without such variation;
  - (c) the application of initial set-up and commencement arrangements with respect to (i) the composition and proceedings of the SEC Panel and (ii) associated matters, including the appointment of the Code Administrator and Secretariat within the meaning given to those terms in Condition 22;
  - (d) the arrangements for consulting any or all of the Authority, the Licensee, the SEC Panel, and SEC Parties with respect to such matters arising under or by virtue of this Part E as may be specified in the SEC; and
  - (e) the timely and regular provision to the Secretary of State and the Authority of such information as is specified in the SEC concerning progress towards the achievement of the Transition Objective.

## Part F: Interpretation

13.15 For the purposes of this condition only:

**Completion of Implementation** is to be read (and will be deemed to be achieved) in accordance with the explanation that is set out in Part D of Condition 5 (General Objectives of the Licensee).

**Enduring General Objectives** and **Interim General Objective** have the meaning given respectively to those terms in Condition 5.

**Transition Objective** has the meaning that is given to that term in paragraph 13.1.

**Transitional Provisions** has the meaning given to that term in paragraph 13.12(a).

## **Condition 22. The Smart Energy Code**

### **Introduction**

[...]

### **Part A: Mandatory features of the Smart Energy Code**

[...]

### **Part B: Designation of the Smart Energy Code**

[...]

### **Part C: Paramount importance of the Transition Objective**

22.8 During the period prior to the Completion of Implementation, as defined in Part D of Condition 5 (General Objectives of the Licensee), the General SEC Objectives set out in Part D below are to be read and given effect subject to the paramount need for the Licensee and SEC Parties to achieve the Transition Objective as set out in paragraph 1 of Condition 13 (Arrangements relating to the Transition Objective), in particular by complying with such provisions of the SEC as may be put in place pursuant to the exercise of the Secretary of State’s powers under Part E of that condition.

### **Part D: General Objectives of the Smart Energy Code**

[...]

### **Part E: Principal contents within the Smart Energy Code**

[...]

### **Part F: Governance and administration of the Smart Energy Code**

[...]

### **Part G: Incorporation of documents into the Smart Energy Code**

22.26 Without prejudice to any of the matters set out in Parts E and F above, the contents of the SEC must also include:

- (a) provision for the incorporation into the SEC of the Charging Methodology for Service Charges that is designated by the Secretary of State under Condition 18 (Charging Methodology for Service Charges) for the purposes of such incorporation in accordance with the requirements of that condition;
- (b) provision for the incorporation into the SEC of the Smart Metering Equipment Technical Specification, and the Communications Hub Technical Specification, in each case as designated by the Secretary of State under this condition for the purposes of such incorporation; and
- (c) provision for the incorporation into the SEC, in each case as designated by the Secretary of State under this condition for the purposes of such incorporation, of such other technical specifications and procedural or associated documents as the Secretary of State believes are required to support the fulfilment of

rights or obligations already specified in the SEC, including, in particular, in relation to the following matters:

- (i) the interface that is to be used to exchange Registration Data (within the meaning given to that term in the SEC) between the Licensee and the persons providing such data to the Licensee,
- (ii) the specification for the interface by means of which requests (or other communications) in respect of Services are to be sent between the Licensee and SEC Parties, and the procedures that are to be followed in connecting to and using that interface,
- (iii) the matters with which SEC Parties have to demonstrate compliance prior to becoming eligible to receive or use Services,
- (iv) the application of appropriate security controls and security standards to business processes carried on under or pursuant to the SEC,
- (v) the detailed policy for managing incidents relating to the provision of Services, and the associated business continuity and disaster recovery procedures, and
- (vi) the procedures required to support the testing, trialling, and market proving arrangements to be established pursuant to the provisions of Condition 13 (Arrangements relating to the Transition Objective).

22.27 A document may be designated under this condition by the Secretary of State for incorporation into the SEC as part of his general designation of the SEC by way of direction under Part B above, or in any circumstances and at any time thereafter up to (but not later than) 31 October 2018.

22.28 The power of the Secretary of State under this condition to designate a document for incorporation into the SEC includes:

- (a) power to make such supplementary, incidental or consequential provision with respect to the SEC as he considers necessary or expedient for the purposes of, in consequence of, or for giving full and timely effect to the incorporation of that document; and
- (b) power to make such provision for the application of that document to SEC Parties, and for the subsequent governance of the document, as he believes is necessary or expedient for the purpose of facilitating the achievement of the General SEC Objectives.

#### **Part H: Other necessary matters for the Smart Energy Code**

[...]

#### **Part I: Relief from obligations under the Smart Energy Code**

[...]

#### **Part J: Interpretation**

[...]

