

Consultation – Annex B: Proposed legal drafting of code modification prioritisation procedure – Balancing and Settlement Code (BSC)

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We have set out below the specific sections of the Balancing and Settlement Code (BSC)^{1, 2} that we propose to amend using our transitional powers subject to schedule 12 to the Energy Act 2023, which we are seeking feedback on as part of this consultation. Proposed deletions are shown in strike-through, and proposed new text is double underlined. Text in red shows changes that have been made to the code text since the August 2025 decision publication, which include changes to ensure that the legal text is up to date, that the correct sections of codes have been updated, and that changes are consistent as far as possible.³ For brevity, we have not reproduced entire sections of the code in this annex. Instead, we have included only the parts of the code that are proposed to change, along with other parts we consider most relevant to understanding those changes. Whilst we have attempted to ensure that our proposed legal text drafting remains accurate as compared to the most up-to-date versions of the code text, we would welcome your highlighting of any parts of the code text proposed here that are out-of-date.

Balancing and Settlement Code⁴ (Balancing and Settlement Code)

SECTION F MODIFICATION PROCEDURES

1. MODIFICATION OF THE CODE

1.3 Modification Register

1.3.3 The Modification Register shall record in respect of current outstanding Modification Business:

(b) whether each Modification is an Urgent Modification Proposal~~;~~ or, where the Modification is not an Urgent Modification Proposal, the Prioritisation Category

¹ The proposed code legal text published here applies for the BSC which has been designated as a 'qualifying document' by the Secretary of State as part of the [Designation Notice \(amended and consolidated\) under paragraphs 1\(1\)\(b\) and 1\(5\) of Schedule 12 to the Energy Act 2023 designating certain documents and central systems for the purposes of Schedule 12 to the Energy Act 2023](#)

² The prioritisation policy that we propose to introduce through this consultation relates to code processes before code manager appointment. We intend to keep the provisions under review, and if amendments are required in the future to account for the introduction of a code manager, a consultation will be carried out.

³ [Decision on the preliminary Strategic Direction Statement and governance arrangements for industry codes | Ofgem](#)

⁴ [Balancing and Settlement Code](#)

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of each Modification, and the reasons for the Panel determining the Prioritisation Category of each Modification;

(c) where the Prioritisation Category of a Modification is changed, this change should be reflected within the Modification Register alongside the reasons for its change.

1.4 Monthly Progress Report

1.4.1 The Panel shall prepare and submit to the Authority each month a progress report (to be known as the "Monthly Progress Report") setting out the matters referred to in paragraph 1.4.2 in respect of the preceding month.

1.4.2 The Monthly Progress Report shall contain:

(a) details of any proposal which has been refused pursuant to paragraph 2.1.3 or paragraph 2.1.4;

(b) the current version of the Modification Register;

(c) details of:

(i) , Where the Modification has been determined to not be an Urgent Modification Proposal, the priority Prioritisation Category which the Panel is proposing to accord or is according to the Modification Proposals contained in the Modification Register (in accordance with paragraph 2.2.3), including the reasons for the Panel's determination;

(ii) the scheduling and timetable for consideration of each Modification Proposal and completion of the Modification Report in respect thereof in the context of all other current Modification Proposals;

(iii) where a Prioritisation Category has been determined in respect of a Modification Proposal, the impact of the at Prioritisation Category priority accorded to each Modification Proposal by reference to each upon any other pending Modification Proposal;

(d) details of any decision to amalgamate Modification Proposals in accordance with paragraph 2.3;

(e) details of any decision to suspend a Definition Procedure or an Assessment Procedure in relation to a particular Modification Proposal and to proceed directly to the Report Phase in accordance with paragraph 2.2.11;

(f) details of any circumstances which lead the Panel to believe that the Implementation Date for an Approved Modification is unlikely to be met or should be brought forward and, if so, why;

(g) such other matters as the Authority may request to be included from time to time;

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(h) details of any decision of the Panel to recommend a Conditional Implementation Date in relation to any Modification Proposal as described in paragraph 1.3.5(c); and

(i) the basis for each of the decisions referred to above (including, where applicable, the cost and other implications of those decisions).

1.4.3 If, following discussion with the Panel, the Authority issues a notice to the Modification Secretary requesting the Panel (in relation to developments and changes highlighted in the Monthly Progress Report):

(a) not to reject a Modification Proposal pursuant to paragraph 2.1.4; and/or

(b) not to amalgamate Modification Proposals as set out in the Monthly Progress Report; and/or

(c) to accord a different ~~priority~~ Prioritisation Category to particular Modification Proposals from that set out in the Monthly Progress Report; and/or

(d) to amend the timetable for definition and/or assessment and evaluation of a Modification Proposal,

the Panel shall comply with such notice.

2. CODE MODIFICATION PROCEDURES

2.1 Modification Proposals

2.1.2 A proposal made pursuant to paragraph 2.1.1 shall be submitted in writing in accordance with BSCP40, and shall contain the following information in relation to such proposal:

(a) the name of the Proposer;

(b) the name of the representative of the Proposer (and their alternate) who shall represent the Proposer in person for the purposes of this paragraph 2;

(c) a description (in reasonable but not excessive detail) of the issue or defect which the proposed modification seeks to address;

(d) a description (in reasonable but not excessive detail) of the proposed modification and of its nature and purpose;

(e) where possible, an indication of those parts of the Code which would require amendment in order to give effect to (and/or would otherwise be affected by) the proposed modification and an indication of the nature of those amendments or effects;

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(f) the reasons why the Proposer believes that the proposed modification would better facilitate achievement of the Applicable BSC Objective(s) as compared with the then current version of the Code and an indication of the impact of the proposed modification on greenhouse gas emissions where the Proposer believes that such impact is likely to be material;

(g) where possible, an indication of the impact of the proposed modification on Core Industry Documents and/or the System Operator-Transmission Owner and/or an Industry Code and an indication of potential inconsistencies of the proposed modification with the Capacity Market Documents and/or the CFD Documents;

(h) where possible, an indication of the impact of the proposed modification on BSC Systems and on other relevant computer systems and processes used by Parties;

(i) where the Proposer has recommended that the proposal should be treated as an Urgent Modification Proposal in accordance with paragraph 2.9, its reasons why the proposal should be treated as such;

(j) whether the proposal should be treated as a Self-Governance Modification Proposal and the Proposer's reasons why the proposal should be treated as such;

(k) where applicable, whether the proposal should be treated as a SCR Exempt Modification Proposal and the Proposer's reasons why the proposal should be treated as such; ~~and~~

(l) where possible, an indication of whether the Modification Proposal seeks to amend the EBGL Article 18 terms and conditions-; and

(m) an assessment by the Proposer of the Modification Proposal against the Prioritisation Criteria.

2.1.3 If a submitted proposal fails in any material respect to comply with the requirements of paragraph 2.1.2 (excluding paragraphs (e), (g) (h) and (l) thereof) and with the exception of paragraphs 2.1.1(g) and 8.2, the Modification Secretary may refuse to accept such submission provided that:

(a) the Modification Secretary shall furnish the Proposer with the reasons for such refusal;

(b) the Modification Secretary shall report such refusal to the Panel at the next Panel meeting;

(c) if the Panel decides to reverse the Modification Secretary's decision to refuse the submission, the Modification Secretary shall notify the Proposer accordingly and the proposal shall be dealt with in accordance with the succeeding provisions of this paragraph 2; and

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(d) nothing in this paragraph 2.1.3 shall prevent a Proposer from submitting a revised proposal in compliance with the requirements of paragraph 2.1.2 in respect of the same subject-matter.

2.1.4 Without prejudice to the development of any Alternative Modification pursuant to paragraph 2.6.2 but subject to paragraph 5.3.2 and 8.5, the Panel may refuse to accept the submission of a proposal made pursuant to paragraph 2.1.1 (with the exception of paragraphs 2.1.1(g) and 2.1.10A) if and to the extent that such proposal has, in the opinion of the Panel, substantially the same effect as:

- (a) a Pending Modification Proposal; or
- (b) a Rejected Modification Proposal, where such proposal is made at any time within two months after the decision of the Authority not to direct the NETSO to modify the Code pursuant to the ESO Licence in the manner set out in such Modification Proposal.

2.2 Panel Proceedings

2.2.3 In relation to each new Modification Proposal, the Panel shall determine:

- (a) whether to amalgamate the Modification Proposal with any other Modification Proposal in accordance with paragraph 2.3;
- (b) whether to:
 - (i) submit the Modification Proposal to the Definition Procedure pursuant to paragraph 2.5; or
 - (ii) submit the Modification Proposal to the Assessment Procedure pursuant to paragraph 2.6; or
 - (iii) proceed directly to the Report Phase pursuant to paragraph 2.7 (in which case the Proposer's right to withdraw or vary their Modification Proposal shall lapse);
- (c) where the Modification Proposal is to be submitted to the Definition Procedure or the Assessment Procedure pursuant to paragraph (b):
 - (i) the composition or identity and terms of reference of the Workgroup in accordance with the provisions of paragraph 2.4;
 - (ii) subject to paragraphs 2.2.8 and 2.2.9, subject to taking into account the assessment made under paragraph 2.1.2(m), and subject to the Panel having already determined that a Modification Proposal is not to be considered as an Urgent Modification Proposal, the Prioritisation Category accorded to the Modification Proposal (as compared with other Pending Modification Proposals) and the timetable to apply for completion of the relevant procedure; and
- (d) where the Modification Proposal is to proceed directly to the Report Phase pursuant to paragraph (b):

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(i) whether the draft Modification Report shall contain a recommendation of the Panel to make the Proposed Modification;

(ii) the proposed Implementation Date for implementation, subject to the consent of the Authority, of the Proposed Modification (whether or not the Panel recommends the making of such Proposed Modification); ~~and~~

(iii) whether (and the extent to which) the Modification Proposal will amend or supplement the EBGL Article 18 terms and conditions in which case:

(A) such Modification Proposal shall also constitute a proposal to amend or supplement the EBGL Article 18 terms and conditions for the purposes of Article 6(3) of the Guideline on Electricity Balancing; and

(B) even though such Modification Proposal may not have been raised by the NETSO, the NETSO hereby agrees that it shall constitute a proposal to amend the EBGL Article 18 terms and conditions but such agreement shall not fetter or restrict the NETSO's rights under the Modification Procedures to express its views on that Modification Proposal; ~~and~~

(iv) subject to taking into account the assessment made under paragraph 2.1.2(m), and, subject to the Panel having already determined that a Modification Proposal is not to be considered as an Urgent Modification Proposal, the Prioritisation Category accorded to the Modification Proposal (as compared with other Pending Modification Proposals).

2.2.8 In setting the timetable referred to in paragraph 2.2.3(c)(ii), the Panel shall exercise its discretion such that, in respect of each Modification Proposal, a Modification Report may be submitted to the Authority as soon after the Modification Proposal is made as is consistent with the proper definition and/or assessment and evaluation of such Modification Proposal, taking due account of ~~its complexity, importance and urgency~~ the Prioritisation Criteria, and whether the Modification Proposal is an Urgent Modification Proposal, or, where it has been determined to not be an Urgent Modification Proposal, its Prioritisation Category.

2.2.9 Without prejudice to paragraph 2.2.8, the Panel shall set the timetable referred to in paragraph 2.2.3(c)(ii) such that:

(a) in respect of a Definition Procedure, it is no longer than two months; and

(b) in respect of an Assessment Procedure, it is no longer than three months

unless the particular circumstances of the Modification Proposal (taking due account of ~~its complexity, importance and urgency~~ the Prioritisation Criteria, and whether the Modification Proposal is an Urgent Modification Proposal or not, or, where it has been determined to not be an Urgent Modification Proposal, its Prioritisation Category) justify an extension of such timetable (and provided that the Authority has not issued a contrary direction in accordance with paragraph 1.4.3 in respect thereof).

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2.2.10 Where Modification Proposals have been determined to not be Urgent Modification Proposals, and hHaving regard to the complexity, importance and urgency of particular Prioritisation Criteria, the Panel may determine the priority Prioritisation Category of Modification Proposals and may ~~according to paragraph~~ (subject to paragraph 1.4.3) adjust the relevant modification timetable for each Modification Proposal accordingly.

2.2.11 The Panel may decide at any time to stop a Definition Procedure and/or an Assessment Procedure and proceed, in either case, directly to the Report Phase, in which case the Proposer's right to withdraw or vary their Modification Proposal shall lapse.

2.2.12 The Panel shall reassess the Prioritisation Category of Modification Proposals bi-annually and adjust the relevant modification timetable for each Modification Proposal accordingly.

2.3 Amalgamation

2.3.1 Subject to paragraph 1.4.3, the Panel may decide at any time to amalgamate a Modification Proposal with one or more other Modification Proposals where the subject-matter of such Modification Proposals is sufficiently proximate to justify amalgamation on the grounds of efficiency and/or where such Modification Proposals are logically dependent on each other.

2.3.2 Where Modification Proposals are amalgamated pursuant to paragraph 2.3.1:

- (a) such Modification Proposals shall be treated as a single Modification Proposal;
- (b) references in this Section F to a Modification Proposal shall include and apply to a group of two or more Modification Proposals so amalgamated;
- (c) without prejudice to each Proposer's right to withdraw their Modification Proposal prior to the amalgamation of their Modification Proposal, the Proposers of each such Modification Proposal shall co-operate in deciding which of them is to be the Proposer of the amalgamated Modification Proposal and, in default of agreement, the Panel shall nominate one of the Proposers for that purpose; ~~and~~
- (d) the Panel shall establish such arrangements as it considers appropriate for the evaluation of the amalgamated Modification Proposals; and
- (e) the Panel shall determine the amalgamated Modification Proposal to have a single Prioritisation Category by considering the Prioritisation Categories accorded to them (and the relevant assessments undertaken in determining these Prioritisation Categories), and determining an appropriate amalgamated Prioritisation Category.

2.7A Send Back Process

2.7A.1 Where the Authority considers that it is unable to form an opinion in relation to a Modification Report submitted to it pursuant to paragraph 2.7.6 or paragraph 5.3A.3 then it may issue a direction to the Panel:

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(a) specifying any additional steps that it requires in order to form such an opinion including drafting or amending the proposed text to modify the Code, revising the implementation timetable and/or proposed Implementation Date(s), revising or providing additional analysis and/or information; and

(b) requiring such Modification Report to be revised and re-submitted to the Authority, and the Authority may include in such direction its reasons for why it has been unable to form an opinion (a "Send Back Direction").

2.7A.2 The Panel shall re-submit the revised Modification Report as soon after the Authority's direction pursuant to paragraph 2.7A.1 as is appropriate (taking into account the Prioritisation Criteria, and whether the Modification Proposal has been determined to be an Urgent Modification Proposal, or, where the Modification Proposal has been determined to not be an Urgent Modification Proposal, its Prioritisation Category complexity, importance and urgency of the Modification Proposal) and the implementation timetable and the proposed Implementation Date(s) specified in the Modification Report (but no other aspect of that Modification Report) shall be deemed to be suspended for the duration of the Send Back Process.

2.7A.3 Subject to paragraph 2.7A.4, in relation to each Send Back Direction BSCCo shall prepare a draft Send Back Process for approval by the Panel which:

(a) shall include a procedure and timetable for the reconsideration by the Panel of its recommendation and the re-submission of the revised Modification Report to the Authority; and

(b) may include such further matters as the Panel considers necessary to address the Send Back Direction including:

(i) further consultation with Parties and interested third parties;

(ii) revised or additional analysis and/or information;

(iii) drafting or amending proposed text to modify the Code;

(iv) revising the proposed Implementation Date(s) (and, without prejudice to the generality of paragraph 2.7A.3(b)(i)), the Panel shall conduct a consultation with Parties and interested third parties in respect of any revised proposed Implementation Date(s); and

(v) any other steps required by the Panel to address the Send Back Direction.

2.7A.4 Where the requirements specified in the Send Back Direction are of a minor nature such that it would be more appropriate for BSCCo to address the matters contained therein without preparing a draft Send Back Process then:

(a) BSCCo may take such steps as are necessary to address the requirements of that Send Back Direction; and

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(b) the provisions of paragraphs 2.7A.6(b), 2.7A.6(c), 2.7A.7 and 2.7A.8 shall apply thereto provided that if the Panel does not approve the revised draft Modification Report then it may require BSCCo to prepare a draft Send Back Process in accordance with paragraph 2.7A.3.

2.7A.5 The Panel shall consider the draft Send Back Process and, having considered any comments made or received by the representative of the Authority, shall determine whether to approve the draft Send Back Process or to instruct BSCCo to make such changes to the draft Send Back Process as may be specified by the Panel.

2.7A.6 Following approval by the Panel of the Send Back Process:

(a) BSCCo and (where applicable) the Workgroup shall perform the additional steps set out in the Send Back Process (including, to the extent necessary, the revision by the Workgroup of its views and rationale as to whether the Proposed Modification and any Alternative Modification better facilitate the achievement of the Applicable BSC Objective(s));

(b) the Modification Secretary shall notify the persons specified in paragraph 2.7.6(b) that the Authority has issued a Send Back Direction, revise the Modification Report, re-submit that Modification Report to the Panel and take any further steps in relation to it as are set out in this paragraph 2.7A and the Send Back Process; and

(c) the Panel shall consider the revised Modification Report in accordance with paragraph 2.7A.7,

in each case in accordance with the procedure(s) and timetable set out in the Send Back Process.

2.7A.7 The Panel shall consider the revised Modification Report and determine:

(a) whether to revise the recommendation it made to the Authority pursuant to paragraph 2.7.5(a):

(b) whether to approve the revised Modification Report or to instruct the Modification Secretary to make such further changes to the revised report as may be specified by the Panel;

(c) (if applicable) whether to approve any revised proposed text to modify the Code or to instruct the Modification Secretary to make any further changes as may be specified by the Panel; and/or

(d) (if applicable) whether to approve any revised proposed Implementation Date(s) for implementation of the Proposed Modification or any Alternative Modification (whether or not the Panel recommends the making of such Proposed Modification or Alternative Modification).

2.7A.8 The Modification Secretary shall:

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(a) finalise the revised Modification Report which shall, for the purposes of the Code, be deemed to be the Modification Report as from the date of the Panel's determination pursuant to paragraph 2.7A.7; and

(b) submit such Modification Report to the Authority and copy it to the persons specified in paragraph 2.7.6(b).

2.7A.9 For the avoidance of doubt, a Proposer shall have no right to withdraw or vary their Modification Proposal during the Send Back Process.

5.3A Authority Led SCR Modification

5.3A.1 Where the Authority has issued a statement in accordance with paragraph 5.1.3A and/or a Backstop Direction in accordance with paragraph 5.3B.1, the Authority may submit an Authority Led SCR Modification Proposal for an Authority Led SCR Modification directly to the Panel.

5.3A.2 In response to an Authority Led SCR Modification Proposal the Panel shall prepare an Authority Led SCR Modification Report which shall include;

(a) an evaluation of the proposed Authority Led SCR Modification; and

(b) an assessment of the extent to which the proposed Authority Led SCR Modification would better facilitate achievement of the applicable BSC objective(s); and

(c) a detailed explanation of the Panel's reasons for that assessment (such assessment to include, where the impact is likely to be material, an assessment of the proposal on greenhouse gas emissions, to be conducted in accordance with such guidance on the treatment of carbon costs and evaluation of the greenhouse gas emissions as may be issued by the Authority from time to time); and

(d) a timetable for implementation of the Authority Led SCR Modification, including the date with effect from which such modification could take effect.

5.3A.3 The Authority Led SCR Modification Report shall be submitted to the Authority as soon after the SCR Modification Proposal is submitted for evaluation as is appropriate (taking into account the Prioritisation Criteria, and whether the Modification Proposal has been determined to be an Urgent Modification Proposal, or, where the Modification Proposal has been determined to not be an Urgent Modification Proposal, its Prioritisation Category complexity, importance and urgency of the modification).

5.3A.4 The Authority can require the revision and re-submission of the Authority Led SCR Modification Report in accordance with paragraph 2.7A.1;

5.3A.5 The timetable referred to in paragraph 5.3A.2(d) for implementation of any modification shall be set by the Authority under paragraph 5.3A.1 or where no timetable has been issued by the Authority under paragraph 5.3A.1, the timetable shall be such as will enable the modification to take effect as soon as practicable, account being taken of the Prioritisation Criteria, and whether the modification has been determined

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~~to be an urgent modification, or, where the modification has been determined to not be an urgent modification, the Prioritisation Category complexity, importance and urgency of the modification with the Authority having discretion to change the timetable.~~

~~5.3A.6 The timetable for the completion of the procedural steps for a Authority Led SCR Modification, as outlined in paragraphs 5.3A.2, 5.3A.3 and 5.3A.4, shall be set by the Authority in its sole discretion.~~

~~5.3A.7 Subject to paragraph 5.3A.6 the Panel may conduct such consultation with Parties and interested third parties as it considers necessary.~~

~~5.3A.8 The Significant Code Review Conclusions and Authority Led SCR Modification Proposal shall not fetter the voting rights of the Panel or the recommendation procedures informing the report described at paragraph 5.3A.2.~~

SECTION X: DEFINITIONS AND INTERPRETATION

ANNEX X-1: GENERAL GLOSSARY

Prioritisation Criteria has the meaning given to that term by the Authority Guidance on Code Modification Prioritisation.

Prioritisation Category has the meaning given to that term by the Authority Guidance on Code Modification Prioritisation.

Authority Guidance on Code Modification Prioritisation means the guidance published by the Authority from time to time on code modification prioritisation.