National Energy Strategy Act 2016

A Bill to create a comprehensive national energy strategy; to compulsorily purchase the existing transmission grid, distribution networks, nuclear power facilities, and selected other non-renewable power generation facilities, to create local and municipal bodies to oversee power supply and generation and assign local targets for fossil fuel reductions and new renewable projects and cooperatives supported by subsidies allocated by a National Energy Strategy Agency; to ensure that the energy industry bodies are democratically accountable to local and national representatives; to establish frameworks for compensation and pay; and for other purposes.

BE IT ENACTED by The Queen's most Excellent Majesty, by and with the advice and consent of the Commons in this present Parliament assembled, in accordance with the provisions of the Parliament Acts 1911, 1949 and 2016, and by the authority of the same, as follows:-

Section One: Definitions

(1) The central government actions, local and municipal government actions, public sector bodies, and public sector investments mandated within this bill carried out with reference to the goals set out in section 2(1)(a) shall collectively be referred to as the National Energy Strategy.

(2) Ofgem shall refer to the Office of Gas and Electricity Markets.

(3) Compulsory purchase shall refer to the immediate transfer of an asset to a stated government or public sector body, with subsequent compensation determined according to existing international legal norms and the regulations within this Act.

(4) The "Secretary" or "Secretary of State" shall refer to the Secretary of State with responsibility for energy policy (at this time the Secretary of State for Energy and Climate Change).

(5) The "Department" shall refer to the Department of Energy and Climate Change.

(6) The "appointed day" shall refer to March 1, 2017.

(7) A fossil fuel is a hydrocarbon-based fuel that is non-renewable and is burned to create energy, including but not limited to coal, petroleum, peat, and natural gas.

Section Two: National public sector bodies and obligations under the National Energy Strategy

(1)

(a) It shall be the objective of the Secretary to guarantee a comprehensive, affordable, environmentally sustainable, geographically-balanced, and democratically controlled energy framework.

(b) The Secretary shall be primarily responsible for monitoring the overall implementation of the National Energy Strategy in all areas not delegated to the Secretary of State for Business, Industry and Labour in section 2(2) with regard to the economic impact assessments produced by the Department of Business, Industry and Labour and social and environmental impact assessments produced by the Department of Energy and Climate Change.

(2) The Secretary of State for Business, Industry and Labour shall, in consultation with the Secretary, be responsible for overseeing compulsory purchase and compensation mechanisms within the National Energy Strategy, and the Department for Business, Industry and Labour shall provide economic impact assessments for proposed actions to be taken under the National Energy Strategy.

(3) The following statutory corporations shall be established:

(a) British Energy Transmission

(b) British Energy Distribution

(c) British Energy (which shall be responsible for generation)

(4)

(a) The National Energy Strategy Agency shall be established under the Department of Energy and Climate Change.

(b) Her Majesty may by Order in Council appoint a Director of the National Energy Strategy Agency (who shall be referred to in this legislation as “the Director”).

(c) The Director shall have responsibility for overseeing the day-to-day management of the National Energy Strategy but must comply with policy instructions from the Secretary of State.

(d) The Director holds and vacates office in accordance with the terms of his/her appointment.

(e) Those terms are to be determined by the Secretary of State.

(f) But the Director—

- must not be appointed for a term of more than five years,
- may at any time resign by giving written notice to the Secretary of State, and
- may be removed from office by Her Majesty on the grounds that he/she is unable or unfit to carry out the duties of his office.

(g) The previous appointment of a person as Director does not affect his/her eligibility for appointment.

(h) The office of Chief Executive of Ofgem is abolished and its functions shall be transferred to the Director of the National Energy Strategy.

(i) But any person holding that office immediately before the appointed day is to become, as from that day, Director of the National Energy Strategy.

(j) As from the appointed day—

- the individual previously holding the office of Chief Executive of Ofgem shall serve a transitional term of six months in office before either being reappointed or replaced.
- If the individual is subsequently replaced they will receive any due compensation required by the terms of their contract for early dismissal.

(k) In this section "the appointed day" means the day appointed under section 4 for the coming into force of this section.

(l) The Director shall be responsible for preparing the integration of the powers, functions and responsibilities of Ofgem into the National Energy Strategy Agency or bodies under its supervision by January 1, 2019, after which point Ofgem as a separate legal entity shall cease to exist.

(m) Her Majesty may by Order in Council, certify the transfer of a power, function or responsibility currently held by Ofgem to the National Energy Strategy Agency or any body under its supervision at a date prior to this.

(5)

(a) The statutory corporations created under section 2(3) shall serve the primary mandate of supporting the objectives outlined under section 2(1)(a).

(b) Her Majesty may by Order in Council appoint individual Chief Executives of British Energy Transmission, British Energy Distribution, and British Energy Generation.

(c) Each Chief Executive shall have responsibility for overseeing the day-to-day management of their statutory corporation but must comply with directions from the Director of the National Energy Strategy.

(d) Each Chief Executive holds and vacates office in accordance with the terms of their appointment.

(e) Those terms are to be determined by the Secretary of State.

(f) But each Chief Executive—

- must not be appointed for a term of more than five years,
- may at any time resign by giving written notice to the Secretary of State, and
- may be removed from office by Her Majesty on the grounds that he/she is unable or unfit to carry out the duties of his office.

(g) The previous appointment of a person as a Chief Executive does not affect his/her eligibility for appointment.

(6)

(a) The Secretary of State for Energy and Climate Change shall provide quarterly reports to Parliament on the overall implementation of the National Energy Strategy.

(b) The Secretary of State for Energy and Climate Change, Secretary of State for Business Industry and Labour, Director of the National Energy Strategy, and the chief and other senior executives of the bodies established under section 2(3)

shall be required to appear before parliamentary committees where requested to, in order to comment on the operation of those areas under their purview.

Section Three: Compulsory purchase of transmission and distribution monopolies

(1) Subject to the provisions of this act, on the appointed day the following companies will be transferred to and vested in the Secretary and their assets and liabilities transferred to British Energy Transmission:
(a) National Grid Electricity Transmission Plc
(b) National Grid Gas

(2) British Energy Transmission shall be a statutory corporation responsible for the provision of a national electricity transmission grid which facilitates the wider objectives of the National Energy Strategy.

(3) Subject to the provisions of this act, on the appointed day the following companies will be transferred to and vested in the Secretary and their assets and liabilities transferred to British Energy Distribution:
(a) Western Power Distribution (South Wales and South West)
(b) Western Power Distribution (West and East Midlands)
(c) Electricity North West
(d) UK Power Networks
(e) Northern Powergrid
(f) Northern Gas Networks
(g) Scotia Gas Networks
(h) Wales and West Utilities

(4) British Energy Distribution shall be a statutory corporation responsible for the provision of a national electricity distribution network which facilitates the wider objectives of the National Energy Strategy.

Section Four: Selective compulsory purchase of non-renewable generation facilities

(1) The Secretary of State for Business, Industry and Skills shall, in consultation with the Secretary of State for Energy and Climate Change, within one month of this Act receiving Royal Assent prepare a list of non-renewable energy generation assets whose combined estimated value is between 54% and 56% of the total energy generation and supply assets in England, Scotland and Wales held by the following companies:

(a) EDF

(b) SSE

(c) Scottish Power

(d) British Gas

(e) nPower

(f) E.on

(2) The list shall be drawn up with reference to the following criteria:

(a) It shall include all operational nuclear power facilities.

(b) It shall be regionally balanced to ensure that British Energy resources are available to all localities.

(c) It shall prioritise the acquisition of comparatively non-polluting sources of power.

(3) Subject to the provisions of this act, on the appointed day the full list of assets will be transferred to and vested in the Secretary and their assets and liabilities transferred to British Energy.

Section Five: Creation of new local and regional energy generation bodies

(1)

(a) Local and municipal authorities shall be required to establish fully publicly-owned energy generation bodies whose executives are accountable to the members of these authorities.

(b) The Secretary of State for Energy and Climate Change shall by Order in Council establish minimum standards of transparency and democratic accountability which must be followed by a local energy generation body (LEGB).

(c) These bodies may be established by individual authorities or may be established by multiple contiguous local authorities as a joint enterprise.
(d) The Director of the National Energy Strategy must certify that each newly established LEGB meets the standards laid down in section 4(4)(b) and that its ownership model and proposed operations fit the National Energy Strategy's overall objectives as established in section 2(1)(a).
(e) All local authorities must individually or jointly run such a body by January 1, 2019.

(2)
(a) Ownership of all energy generation assets held by British Energy, with the exception of nuclear power facilities, will be transferred to certified LEGBs on January 1, 2019.
(b) The Secretary of State for Energy and Climate Change may, with the consent of a resolution in the House of Commons, postpone the transfer of certain assets by up to six months at a time in the event of a failure by a local authority to individually or jointly secure certification for a LEGB.
(c) Upon the transfer of all non-nuclear assets from British Energy to certified LEGBs, British Energy will be renamed to British Nuclear.

(3)
(a) British Energy will reduce carbon emissions from non-renewable energy generation by 10% through the closure of power stations by January 1, 2019 and will replace all lost capacity through the construction of new renewable generation facilities.
(b) The Director of the National Energy Strategy will set binding triennial targets upon each certified LEGB to progressively reduce carbon emissions from non-renewable energy generation. These targets will converge towards all LEGBs using 100% renewable sources by 2031 but the Director should ensure that where it is possible based on local infrastructure that reductions in carbon emissions are accomplished as quickly as possible.
(c) LEGBs are not required to generate all renewable fuels towards these targets themselves but may subcontract aspects of renewable generation to producer or consumer cooperatives.

(d) All proposed renewable energy generation projects by producer or consumer cooperatives must be approved by a certified LEGB.
(e) The National Energy Strategy Agency shall disburse subsidies to certified LEGBs where they require assistance to fulfil their targets. LEGBs should, where beneficial, further allocate these subsidies to producer or consumer cooperatives.
(f) Beginning 1st May 2022 an additional flat tax of 5% will be levied on all sales of energy from fossil fuel power stations; this tax will be increased to 10% on May 1st, 2025 and again to 20% on May 1st, 2028.
(g) The construction of new fossil fuel power stations is prohibited.
(h) The practice of hydraulic fracturing is prohibited, whether onshore or offshore.

Section Six: Creation of new local and regional energy supply bodies
(1)
(a) Local and municipal authorities shall be required to establish fully publicly-owned energy supply bodies whose executives are accountable to the members of these authorities.
(b) The Secretary of State for Energy and Climate Change shall by Order in Council establish minimum standards of transparency and democratic accountability which must be followed by a local energy supply body (LESB).
(c) These bodies may be established by individual local authorities or may be established by multiple contiguous local authorities as a joint enterprise.
(d) The Director of the National Energy Strategy must certify that each newly established LESB meets the standards laid down in section 4(4)(b) and that its ownership model and proposed operations fit the National Energy Strategy's overall objectives as established in section 2(1)(a).
(e) All local authorities must individually or jointly run such a body by January 1, 2018.
(f) LESBs shall be provided with initial startup funding to assist them in breaking into the existing supply market by the National Energy Strategy Agency but shall be expected to operate without subsidy by January 1, 2020.

Section Seven: Compensation for compulsory purchase
(1)

An independent, non-binding arbitration tribunal will be established to attempt to secure a negotiated agreement on compensation with the owners of the property to be compulsorily purchased.

(2) HM's Government retains the right to unilaterally impose a fair compensation settlement on previous owners in line with contemporary international rates paid by developed countries in the event a negotiated agreement on compensation cannot be found with all parties: as has been guaranteed by the European Court of Human Rights *(Lithgow and Others v. the United Kingdom (1986) 8 EHRR 329* and *James and Others v United Kingdom (1986) 8 EHRR 123)* and the England and Wales Court of Appeal *(SRM Global Master Fund LP & Ors v HM Treasury [2009] EWCA Civ 788)* in cases where compulsory purchase serves a legitimate public interest, in this case the creation of a comprehensive national strategy to reduce carbon emissions and climate change.

Section Eight: Employment Protection

(1) The transfers of ownership under this Act will be subject to the Transfer of Undertakings (Protection of Employees) Regulations 2006 and employees whose employer is altered will receive the full protection of these regulations.

(2) The Director of the National Energy Strategy shall appoint an Energy Pay Commission consisting of a Chair, directly appointed by the Director, as well as a representative appointed by each of the unions and new management in state-owned firms. This commission shall be tasked with ensuring that there is no pay discrimination, regional pay gaps, or pay inequalities between workers previously employed by different private firms, within the framework of the Transfer of Undertakings (Protection of Employees) Regulations 2006.

Section 6: Commencement, Short Title & Extent

(1) This bill will come into effect upon receiving Royal Assent.

(2) This bill may be cited as the National Energy Strategy Act 2016

(3) This act shall extend to England, Scotland and Wales.

Appendix for members:

The estimates for the cost of compulsory purchases under this bill cannot be released without potentially compromising the Government's negotiating position, however the total cost of the bill, including compulsory purchases, subsidies, and administrative costs, is estimated to be far below the 100 billion over five years allocated to new energy projects under the Finance Act 2016 from which the funds will be drawn. The Government's cost estimates and the evidence upon which they are based will be made privately available in Council to an energy spokesperson from each opposition party upon their request.

Written by /u/colossalteuthid, the Secretary of State for Business, Industry and Labour and sponsored by /u/mg9500, Secretary of State for Energy and Climate Change on behalf of the 14th Government.