

ENERGY BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Energy Bill as introduced in the House of Commons by the 1st mhoc Government.

These Explanatory Notes have been prepared by the Department for Energy Security and Net Zero in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.

These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 The purpose of this Bill is to create Great British Energy as a statutory corporation. Great British Energy will be an operationally independent clean energy company wholly-owned by the Government. The Bill also prohibits fracking in England, restricts natural gas flaring and venting past the end of 2025, and makes amendments regarding the planning process for solar farms and onshore wind farms.

Territorial extent and application

- 2 Clause 14 sets out the territorial extent of the Bill. Part 1 of the Bill extends and applies to England, Wales and Scotland, clause 10 extends to England and Wales and applies to England, and the rest of the bill extends and applies to the entirety of the UK (but clauses 11 and 12 apply only to England).
- 3 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned. Accordingly, the Bill prohibits GB Energy from using its powers with regard to matters that are within the legislative competence of the Scottish Parliament or the Senedd Cymru without the consent of the Scottish Government or Welsh Government (as the case may be).
- 4 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Clause 1: Establishment of Great British Energy

- 5 This clause creates a new statutory corporation called “Great British Energy”, or “GB Energy” for short.
- 6 The clause also provides that Great British Energy will not have Crown status, and that Great British Energy’s property is not to be regarded as owned by, or on behalf of, the Crown.

Clause 2: Membership of Great British Energy

- 7 This clause sets out who will sit on the governing board of GB Energy. It allows the Secretary of State to appoint up to 7 people to the board (one of whom they appoint to be the chair of

the board), the Committee on Climate Change can appoint one person, and the staff of GB Energy can elect 2 persons for a term not exceeding 2 years.

- 8 This clause also says that if GB Energy is to have any divisions, the directors of those divisions are also to sit on the board.
- 9 Schedule 1 makes further provision about the staff-elected members of the board. In particular, it allows any staff who does not sit on the board to vote in the election, and allows any staff who are not on the board to run for election (but with the elected members allowed to run for election). The ballot is also to include an option to reopen nominations. GB Energy may regulate the election, and the Secretary of State can use secondary legislation (negative procedure) to amend the schedule.
- 10 This clause further states that if someone is insolvent, disqualified as a charity trustee or disqualified as a company director in the UK or anywhere else in the world, they cannot sit on the board.
- 11 This clause allows the board to elect a vice chair.
- 12 This clause allows the Secretary of State to otherwise decide how GB Energy is governed.

Clause 3: Early termination of membership

- 13 This clause sets out that a person's membership of GB Energy's governing board ends if: they resign; they become disqualified from being a member; the Secretary of State removes them if the Secretary of State appointed them; they lose re-election; or if they are no longer a director of a division of GB Energy.
- 14 This clause also says that if a member who was elected by the staff to sit on the board resigns, then there shall be an extraordinary election for their position, but it does not have to be held if the ordinary election is scheduled to be held in less than 4 weeks' time.

Clause 4: Divisions of GB Energy

- 15 This clause allows the Secretary of State to split GB Energy into divisions via secondary legislation (negative procedure).

Clause 5: General powers of GB Energy

- 16 This clause gives GB Energy the power to do anything which satisfies its functions. This power is not affected by its governing board having vacant members, a member being disqualified, or there being a defect in the appointment of a member.
- 17 This clause further states that if GB Energy proposes to do something in Scotland or Wales which relates to a devolved matter in that nation, they must first seek the consent of that nation's devolved government.

Clause 6: Functions of GB Energy

- 18 This clause sets out the functions of GB Energy. Those functions are facilitating, encouraging and participating in: the transmission, distribution, import, export and supply of electricity; the transmission and distribution of heating fuels; the supply, import and export of clean heating fuels, the generation of clean electricity and clean heating fuel; the storage of electricity and clean heating fuels; the reduction of greenhouse gas emissions from energy produced from fossil fuels; improvements in energy efficiency; and measures for ensuring the security of the supply of energy.
- 19 "Clean electricity" and "clean heating fuel" mean electricity and heating fuel generated from one of the following sources: biomass, biofuel, fuel cells, photovoltaics and solar power, water (including waves and tides), wind, geothermal, nuclear energy, and any other source which the Secretary of State believes would cut greenhouse gas emissions. "Heating fuel" means a fuel used for generating heat, such as natural gas.

Clause 7: Strategic priorities and plans

- 20 This clause requires the Secretary of State to prepare and lay before Parliament a statement of strategic priorities for GB Energy. Such a statement may be revised or replaced by the Secretary

of State. The policy intention is that the statement will provide Great British Energy with a steer on where, in the Government's view, the company should prioritise and focus its activities.

- 21 The clause also requires the Secretary of State to consult GB Energy, the Scottish Government, the Welsh Government, and the Committee on Climate Change on what should be in this statement.

Clause 8: Directions

- 22 This clause allows the Secretary of State to give directions to GB Energy. The Secretary of State is not able to do so until they have consulted GB Energy and the Committee on Climate Change. Any directions given must be published and laid before Parliament. Great British Energy is required to comply with these directions.
- 23 The Government's policy is that such influence should be used sparingly in practice, and that the default position should be that Great British Energy is independent as regards its operations and investment decisions
- 24 This power is consistent with the power that the Government has to direct comparable institutions, for example: the Department for Energy Security and Net Zero has a statutory power to direct Great British Nuclear, although, to date, this has never been used.

Clause 9: Financial provisions

- 25 This clause enables the Secretary of State to provide financial assistance to Great British Energy, which would occur in line with its agreed financial framework and HMT delegations. Financial assistance may be provided as a grant, and the Secretary of State may restrict how the grant is to be used.
- 26 This clause also allows the Secretary of State to decide how GB Energy should spend any surplus. If the Secretary of State decides that the surplus is to be repaid to the government, it is to be paid into the Consolidated Fund.

Clause 10: Amendments to definition of nationally significant infrastructure

- 27 This clause amends English planning law so that onshore wind farms with a power output of 100 MW or greater, and solar farms with a power output of 150 MW or greater count as nationally significant infrastructure.

Clause 11: Prohibition of hydraulic fracturing in England

- 28 This clause, along with schedule 2, prohibits hydraulic fracturing, commonly known as fracking or shale gas fracking, in England.

Clause 12: Prohibition of flaring and venting

- 29 This clause prohibits natural gas flaring and venting on offshore oil rigs in the UK from January 1st 2026 onwards. This prohibition does not apply to venting and flaring which is necessary due to safety reasons, to start up or shut down a manufacturing plant, to comply with a legal requirement, or if it is refinery tail gas produced in refining crude liquid petroleum.

Clause 13: Interpretation

- 30 This clause defines some terms used in the bill.

Clause 14: Extent

- 31 This clause states that the parts of this bill concerning GB Energy (i.e. part 1 of the bill) extend to England, Wales and Scotland), the part banning hydraulic fracturing (i.e. section 10) extends to England only, and the other parts (including the part banning flaring and venting) extent to the entirety of the UK.

Clause 15: Commencement

- 32 This clause states that the Act comes into force upon Royal Assent.

Clause 16: Short title

33 This clause states that the Act's short title is "Energy Act 2024".

Commencement

34 See paragraph 25 above.

Financial implications of the Bill

35 Clause 4 establishes that the Secretary of State can provide Great British Energy with financial assistance to deliver its objects under the Bill.

36 The Secretary of State, in line with usual practice concerning compliance with its agreed financial framework and HMT delegations, will provide Great British Energy with funding as will be set out in the upcoming budget.

Compatibility with the European Convention on Human Rights

37 The Government considers that the Energy Bill is compatible with the European Convention on Human Rights (ECHR). Accordingly, the Secretary of State has signed a statement under section 19(1)(a) of the Human Rights Act 1998 to this effect.

Environment Act 2021: Section 20

38 The Secretary of State for Energy Security and Net Zero, is of the view that the Bill as introduced into the House of Commons contains provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021, but that the Bill would not have the effect of reducing the level of environmental protection provided for by any existing environmental law. Accordingly, the Secretary of State has signed a statement under that section 20(2)(a) and (3) of the Environment Act 2021 to that effect.

Statement on effect on trade between Northern Ireland and other parts of the United Kingdom

39 The Secretary of State for Energy Security and Net Zero is of the view that the Bill, as introduced to the House of Commons, contains provisions which, if enacted, would affect trade between Northern Ireland and the rest of the United Kingdom, but that the Bill would not have a significant adverse effect on such trade. Accordingly, the Secretary of State has signed a statement under section 13C(2)(a) of the European Union (Withdrawal) Act 2018 to that effect.

Related documents

40 The following documents are relevant to the Bill and can be read at the stated locations:

- Labour Party Manifesto 2024

https://drive.google.com/file/d/1S40_sGBLb25n72mDffuucdMgMzvjWxN2/view

- Department for Energy Security and Net Zero ministerial statement on renewable electricity and the planning system (8 July 2024)

https://new.reddit.com/r/MHOC/comments/1fcs4vl/ministerial_statement_on_renewable_electricity/

Documents which inspired this Bill

- 41 The following documents inspired parts of the Bill:
- a. Part 1 was in part inspired by the real-life [Great British Energy Bill](#)
 - b. Part 1 was in part inspired by the [Energy Act 2023](#) from mhoc v1.0
 - c. Clause 11 is inspired by an equivalent proposal made in real life by the Labour government
 - d. Clause 12 is based on an [amendment](#) proposed to the real-life Energy Act 2023 by Chris Skidmore MP
 - e. This document was in part inspired by the explanatory notes of the real-life [Great British Energy Bill](#)
 - f. Some provisions were inspired by the wording of other real-life legislation

Formatting note

- 42 The table in Schedule 2 of the Act may not display properly on reddit (and it may not be possible to display it correctly at all due to the rules of markdown). The correct formatting of the table is:

Provision	Extent of repeal
Section 4A	The entirety of subsection (3). The words "the Secretary of State or " are omitted in subsections (4), (5) and (7).
Section 4B	The entirety of subsections (4) to (7) and (9) to (11).
Section 4B(8)	In the definition of "local planning authority", both mentions of "Secretary of State or " are omitted. In the definition of "relevant environmental regulator", paragraph (a) is omitted. In the definition of "well consent", the words "the OGA or " are omitted.

Annex A - Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1 - 9	Yes	Yes	No (other provisions used)	Yes	No (other provisions used)	No	No
Clause 10	Yes	No	No	No	No	No	No
Clause 11	Yes	No	No	No	No	No	No
Clause 12	Yes	Yes	No	Yes	No	Yes	No
Clause 13-16	Yes	Yes	No	Yes	No	Yes	No

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