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Summary

The UK Infrastructure Bank Bill 2022-23 would put the UK Infrastructure Bank on a statutory footing and clarify its powers to lend to local government.

The bill was introduced to the House of Commons on 12 July 2022 having completed its passage through the House of Lords. Second reading of the bill in the House of Commons took place on 1 November 2022. The bill was considered by a Public Bill Committee over two sittings on 22 November 2022.

This paper summarises the background and content of the bill and its stages in Parliament. The bill, and its Explanatory Notes, can be found on the Parliamentary website.

About the UK Infrastructure Bank

The UK Infrastructure Bank ('the Bank') was established in June 2021 and is currently operating in interim form without its full suite of staff and functions. It is a key part of the Government's National Infrastructure Strategy.

The Bank provides finance to the private sector and local government for infrastructure projects. It will also provide advice to local governments on infrastructure projects and financing.

The Bank is a publicly owned limited company with HM Treasury as the sole shareholder. The Bank's board manages its operations and investment decisions independently, in line with strategic objectives set by the Treasury.

The Bank's objectives and focus areas for investment

The Bank's strategic objectives are to:

- help tackle climate change; and
- support regional and local economic growth.

The bill would put these strategic objectives on a statutory footing.

The Treasury has set the Bank's primary focus for investment as the five economic infrastructure sectors covered in the National Infrastructure Strategy: clean energy, transport, digital, water and waste. It has asked the Bank to prioritise projects that align with the government's "renewed focus on energy security".

How much funding does the Bank have available?

The Treasury has provided an initial £22 billion funding to the Bank over its first five years.

The Treasury has set some guiding principles for how the Bank should assess its investments. Broadly, these are that the Bank's investments should:

- address its policy objectives (to tackle climate change and support local economic growth);
- generate a positive financial return; and
- focus on areas where there is an under supply of private sector finance.

What has the Bank invested in so far?

The Bank had invested in eight deals worth £760 million and mobilised over £4.5 billion of private capital as of August 2022. These include investments in subsidy-free solar farms, green buses, gigabit broadband infrastructure and in the South Bank Quay development at Teesworks (to create a quay to service the offshore wind sector).

The Bank's first annual Strategic Plan published in June 2022 said that while its early investments had focused on the roll-out of gigabit broadband, the Bank expects clean energy to emerge as its largest sector.

The Bank's first Annual Report and Accounts were published on 24 November 2022. It reported that in the Bank's first year, a £104 million profit (after tax) was achieved, representing a 30% return on equity.

Comment on the Bank

The National Infrastructure Commission welcomed the establishment of the Bank and has said that the Bank is one area where the Government was making positive progress on meeting its Infrastructure Strategy.

The Labour Party has argued that the Government's proposals for the Bank were too small in scale and would not "plug the gap" left by the loss of European Investment Bank finance in the UK.

The National Audit Office (NAO), in its July 2022 report on the creation of the Bank, found that the Bank had been set up quickly in an "unusual approach". It said that important planning steps had been missed but that the Treasury had put in place controls to protect taxpayers' money.

The NAO said it was too early to say if the Bank will be a success and highlighted that managing the Bank's approach to risk would be a key challenge for determining its value and success. Infrastructure investors have argued that the Bank needs to be careful not to "crowd out" private sector finance and should concentrate on investments that are otherwise too risky for private sector investors.

The Public Accounts Committee (PAC) carried out an inquiry on the creation of the UK Infrastructure Bank following the NAO's report. The PAC's report raised questions about the independence, strength and value of the first deals made by the new UK Investment Bank.

Environment and climate change campaign groups and academics have argued that the Bank's objectives should include a commitment to a 'just transition' to net zero emissions.

The bill

The aim of the bill is to place the UK Infrastructure Bank on a specific statutory footing. The bill consists of 11 clauses.

The bill would:

- set the Bank's strategic objectives on a statutory footing that would require primary legislation to amend.
- Set out the Bank's activities and the definition of infrastructure. The bill includes a power for the government to change these definitions by secondary legislation.
- Set out how the government would steer the Bank's strategy (through issuing a statement of strategic priorities) and how it could intervene to give the Bank directions.
- Set out the type of financial assistance the Bank would provide, including clarifying the Bank's power to lend to local authorities.
- Specify administrative arrangements for the Bank including appointments to the Bank's board and publication of the Bank's annual reports and accounts.
- Require an independent review of Bank's effectiveness and impact at least every 7 years.

Commons second reading and committee stage

Second reading of the bill in the House of Commons took place on 1 November 2022. The bill and the Bank received broad cross-party support in general.

The bill was considered by a Public Bill Committee over two sittings on 22 November 2022. Government amendments made during committee stage included:

- removing the reference to "structures underpinning the circular economy, and nature-based solutions" (added during the Lords stages) from the definition of infrastructure in clause 2(5).
- Removing clause 2(6), which reversed the amendment added by the House of Lords to require that the Bank consider levelling up metrics (reducing geographic inequalities and improving pay, productivity and living standards) when carrying out its activities.
- Adding provisions to require consultation with the devolved nations and that at least one director on the Bank's board must be responsible for the interests of the devolved nations.

Several opposition amendments were moved and pushed to division but did not pass. These included amendments seeking to add more specific levelling up metrics to the Bank's objectives and to add a requirement that one of the Bank's non-executive directors must be a workers' representative.

The Government said it would consider returning with an amendment during report stage to reduce the 7-year time period set out in clause 9(5) for subsequent independent reviews of the Bank. This followed amendments moved by both the Opposition and Conservative MP Richard Fuller that sought to reduce the time period between reviews.

House of Lords stages

There was largely broad cross-party support for the bill in principle in the House of Lords.

Key topics of discussion during the House of Lords stages included:

- the content of the Bank's objectives and the definition of infrastructure, in particular the Bank's environmental mandate and obligations;
- whether the Bank's operating and investment principles should be included in the bill;
- discussion of the Bank's governance: concerns were raised about the independence of the Bank from the Treasury, in particular the power of direction in Clause 4;
- the role of the devolved administrations in relation to the Bank, as many areas of infrastructure investment are devolved.

Two non-Government amendments were made during report stage. These amendments:

- added "nature-based solutions and the circular economy" to the definition of infrastructure in Clause 2(5);
- added a requirement for the Bank to have regard to levelling up metrics when exercising its activities (now Clause 2(6)).

The Government moved an amendment at report stage to specify that energy efficiency is included within the definition of infrastructure. It also moved a series of amendments regarding the statutory reviews of the Bank (Clause 9). The changes include:

- requiring the reviews to be carried out by an independent person rather than the Treasury;
- adding a requirement that the reviews consider the additionality of the Bank's investments (that is, the extent to which the Bank's investments have encouraged additional private sector investment);
- changing the time period for the first review from 10 years to 7 years.

The Government amendments were agreed without division and were strongly supported by peers across the House.

1 The UK Infrastructure Bank

The UK Infrastructure Bank ('the Bank') was established in June 2021 and is currently operating in interim form. The Bank provides finance to the private sector and local government for infrastructure projects to help to tackle climate change and support local and regional economic growth. It is a key part of the Government's National Infrastructure Strategy.[1]

The UK Infrastructure Bank Bill would put the UK Infrastructure Bank on a statutory footing and clarify its powers to lend to local government.

The bill, and its Explanatory Notes, can be found on the Parliamentary website.

1.1 Policy Background

Infrastructure in the UK is funded by a mixture of public and private investment. The Infrastructure Project Authority, the Government's centre for expertise on infrastructure, has forecast around £650 billion investment in new infrastructure projects between 2021/22 and 2030/31.[2] Around half of the pipeline of infrastructure projects planned to 2024/25 will be funded and delivered privately and half is made of up public funding.[3]

The government plays a role in supporting infrastructure policy including by providing funding and by setting a policy and regulatory environment that encourages private investment. Avenues for public financing of infrastructure alongside the private sector have reduced in recent years, with the withdrawal of the Private Finance Initiative (PFI) model in 2018, and the loss of European Investment Bank finance after Brexit.[4]

As part of its first National Infrastructure Assessment in 2018, the National Infrastructure Commission (NIC) recommended that a new UK-wide infrastructure Bank be established, to manage the loss of funding from the European Investment Bank.[5] The Government subsequently conducted a review of infrastructure finance in 2019, to examine its tools for supporting

1 HM Treasury, National Infrastructure Strategy, 20 November 2020.
2 IPA and HM Treasury, National Infrastructure and Construction Pipeline 2021, 13 September 2021.
3 Public funding includes an element of mixed funding (any combination of funding sources);49.3% of funding (£98.7bn) is private and 50.7% (£101.5bn) is funded by the public sector. IPA, Analysis of the National Infrastructure and Construction Pipeline 2021 (PDF), August 2021, page 17.
4 NAO, Creation of the UK Infrastructure Bank, 1 July 2020, para 1.3
5 NIC, National Infrastructure Assessment 1 (2018), July 2018; Library briefing, National Infrastructure Commission, 19 January 2021; Library briefing, The European Investment Bank, 16 September 2020.

private investment.[6] It concluded that there was support for a new body to deliver infrastructure finance, in line with the NIC's recommendation.[7] It said that the new body would replace some of the functions of the European Investment Bank but be more focused on government policy objectives.

The Government published its National Infrastructure Strategy in November 2020.[8] The strategy set out the government's plans to "transform UK infrastructure to level up the country, strengthen the Union and achieve net zero emissions by 2050". It included plans to bring forward a new UK infrastructure bank by 2021 as part of plans to support and increase private sector investment in UK infrastructure.[9] At the 2021 Spending Review, the Government said it had committed £130 billion to economic infrastructure from 2020 to 2024/25.[10]

The Library briefing, Infrastructure policies and investment (March 2021) provides background information on infrastructure spending and the Government's policy on infrastructure in recent years.

1.2 Establishing the Bank

A policy design document for the UK Infrastructure Bank was published in March 2021.[11] The government said that the Bank would be an "enduring" independent institution.[12] The document set out initial details for the design of the Bank and a steer on its initial areas of focus (detailed further below).

The Bank was launched in June 2021.[13] Its headquarters are in Leeds.

After its launch the Bank was operating in interim form, using temporary and contract staff and relying heavily on existing HM Treasury systems for financial management. The Bank has now begun recruitment of permanent staff.[14] The Bank says it aims to reach a full headcount by Summer 2023 and ultimately expects to have around 300-335 staff.[15]

Members of the Bank's board have been announced over the last year. The Treasury appointed Chris Grigg CBE as Chair of the Bank in March 2021 and

6 HM Treasury and IPA, Infrastructure Finance Review, 25 November 2020.
7 HM Treasury and IPA, Infrastructure Finance Review, 25 November 2020.
8 The Strategy was the Government's full response to the National Infrastructure Assessment. HM Treasury, National Infrastructure Strategy, 20 November 2020.
9 HM Treasury, National Infrastructure Strategy, 20 November 2020.
10 From when the National Infrastructure Strategy was published to the end of the Spending Review period; HM Treasury, Autumn Budget and Spending Review 2021: documents; 27 October 2021, para 2.47.
11 HM Treasury, Policy Design of the UK Infrastructure Bank, 3 March 2021.
12 HM Treasury, Policy Design of the UK Infrastructure Bank, 3 March 2021.
13 HM Treasury, UK Infrastructure Bank opens for business, 17 June 2021.
14 UKIB, Strategic Plan 2022, June 2022. pages 3 and 15.
15 UKIB, Strategic Plan 2022, June 2022, page 15

John Flint as CEO in September 2021.[16] The first four permanent non-executive directors were appointed by the Treasury in June 2022.[17] Other members of the senior leadership team have been appointed by the Bank.[18]

The Bank's first Annual Report and Accounts, covering the year to 31 March 2022, were published on 24 November 2022.[19]

1.3 The Bank's activities

The Bank will have both a financing and advisory role. The Bank's three main activities or functions are:[20]

- providing finance to private sector infrastructure projects using a range of financing tools including debt, equity and guarantees
- providing loans to local authorities for strategic infrastructure projects
- acting as a centre of expertise and provide advisory support local government for infrastructure projects.

The Bank's advisory activities are in the early stages of being established. In September 2022, the Bank announced it would partner with Bristol, Greater Manchester, and West Yorkshire on three pilot projects as it builds its advisory function.[21]

1.4 The Bank's relationship with the Treasury

The Bank is a publicly owned limited company with HM Treasury as the sole shareholder. It is operationally independent of government and governed by a board. UK Government Investments (UKGI) acts as the shareholder's representative on the Bank's board.[22]

The board manages the Bank's day-to-day operations independently, in line with strategic objectives set by the Treasury (see section 1.4 and Box 1 below).

16 HM Treasury, John Flint appointed as UK Infrastructure Bank CEO, 1 September 2021.
17 HM Treasury, Boost for the UK Infrastructure Bank as permanent board appointed, 9 June 2022.
18 UKIB, The UK Infrastructure Bank appoints its first permanent executive team [accessed 27 October 2022]
19 UKIB, Annual Report and Accounts 2021-22, 24 November 2022.
20 The early documents (policy design document and strategic steer letter) use the term 'functions' while the bill uses the term 'activities' to describe these roles.
21 UKIB, First pilots announced for new local authority advisory function, 29 September 2022.
22 UKGI is a government company. It acts as shareholder for, and leads the establishment of, UK government arm's length bodies. It is the centre of excellence for corporate governance and corporate finance.

The Bank will publish a Strategy every year, which is approved by the Treasury.[23] The Bank published its first annual Strategic Plan in June 2022 (discussed in section 1.5 below).[24]

1.5 The Bank's objectives and operating principles

The Treasury has defined the Bank's strategic objectives and primary focus areas for investment. It has also set operating and investment principles that the Bank should follow when assessing investment opportunities. These principles are discussed in the following sections.

The strategic objectives and operating and investment principles are set out in the Framework Document (June 2021) and the Chancellor's March 2022 letter to the Bank on priorities (see Box 1).

The bill would set the strategic objectives and the Bank's activities on a statutory footing, but not the operating and investment principles.

Box 1 Framework Document and strategic steer

Framework Document

The Framework Document, published at the Bank's launch in June 2021, sets out the relationship between the Bank, the Treasury and UK Government Investments. It also sets out strategic objectives, operating principles and investment principles for the Bank (detailed further below) along with corporate governance and reporting requirements.

Strategic steer letter

In March 2022 the Chancellor issued a letter to the Bank outlining the Government's priorities for the institution.[25] It gave further detail on the types of projects that should fall within the Bank's scope and on the interpretation of the strategic objectives (discussed below).

The bill would require the Treasury to issue a statutory statement of strategic priorities to the Bank (clauses 3-4). The Government intends that this letter will form the basis of its first such statutory statement after the bill becomes law.[26]

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23 HM Treasury, UK Infrastructure Bank: Framework document, 17 June 2021.

24 UKIB, Strategic Plan 2022, June 2022.

25 HM Treasury, Chancellor's letter to the UK Infrastructure Bank, 18 March 2022.

26 UK Infrastructure Bank Bill, Explanatory Notes (PDF), para 50 and 47. Clause 3 would introduce a requirement for the Treasury to prepare a statement of strategic priorities for the Bank (see section 2.2 below).

Strategic objectives

The Bank's strategic objectives are to:

- help tackle climate change; and
- support regional and local economic growth.

The bill would put these strategic objectives on a statutory footing. Changing the strategic objectives would require primary legislation.

The objectives align with the Government's policy ambitions on reaching net zero carbon emissions by 2050, and the "levelling-up" agenda to reduce geographic disparities across the UK.[27]

To address potential conflicts between these objectives, the Framework Document sets out a 'do no harm' principle: that is, where an investment is primarily to support economic growth, the Bank will ensure that it does not do significant harm against its climate objective.[28] It adds that the Bank should not consider supporting fossil fuel-based projects with limited exceptions (such as carbon capture and storage projects).[29] There was debate during the House of Lords stages about whether the 'do no harm' principle should be present on the face of the bill, not just in the non-statutory Framework Document (see section 3 of this briefing for discussion).

The Treasury's letter on strategic priorities to the Bank sets out the Government's current view on how the Bank's strategic objectives should be interpreted:[30]

- on climate change, it says that the Bank should ensure its strategy is consistent with the Government's Net Zero Strategy and energy security goals.
- It clarified that projects to make UK infrastructure resilient to climate change, climate change adaption and nature-based projects are in scope (see Box 2 below).
- On economic growth the Treasury encouraged the Bank to target investments towards projects that deliver against the missions set out in the Levelling Up White Paper, in particular missions 1, 3 and 4 – employment, productivity, transport infrastructure and digital connectivity.

27 DLUHC, Levelling Up the United Kingdom, 2 February 2022.
28 HM Treasury, UK Infrastructure Bank: Framework document, 17 June 2021.
29 HM Treasury, UK Infrastructure Bank: Framework document, 17 June 2021.
30 HM Treasury, Chancellor's letter to the UK Infrastructure Bank, 18 March 2022.

2 The Bank's environment objectives

The Chancellor's letter on strategic priorities to the Bank contained the Government's response to its review of the Bank's environmental objectives.[31] The review considered whether the Bank's strategic objectives should be broadened to specifically include other areas beyond climate change, such improving the UK's natural capital and biodiversity.

The Government concluded that the Bank's climate change objective already includes scope for natural capital projects, including nature-based infrastructure solutions and private markets for ecosystem services. It encouraged the Bank to "consider the role it could play in nature-based solutions and how that might develop over time".[32] It also encouraged the Bank to embed environmental impacts into its project appraisals.

The Bank's environment objectives were a big focus of discussion during the Lords stages of the bill. One non-government amendment was made to the bill to expand the definition of infrastructure in the bill to include natural capital projects (see Section 3.3 below for discussion).

Operating principles

The Framework Document sets out six operating principles that the Bank should act in line with when carrying out its activities. Broadly these are that the Bank's investments should address its policy objectives, generate a positive financial return and focus on areas where there is an under supply of private sector finance.

The six operating principles are:

- Achieving a "double bottom line": the Bank's investments should help to achieve its policy objectives and generate a positive financial return.[33]
- Partnership: The Bank will operate in partnership with private and public sector institutions
- Additionality: the Bank will prioritise investments where there is an undersupply of private sector finance and, by reduce barriers to investment, "crowd in" private sector finance.

31 This review was promised in the policy design document: HM Treasury, Policy Design of the UK Infrastructure Bank, 3 March 2021.

32 HM Treasury, Chancellor's letter to the UK Infrastructure Bank, 18 March 2022.

33 In its strategic plan, the Bank described a "triple bottom line", that is, that it's investments should: achieve a financial return target; have a positive impact on local growth and net zero; and bring in additional private investment.

- Operational independence from government: the Bank will have operational independence in its day-to-day activities, including independently making investment decisions (subject to certain conditions).
- Impact and credibility: the Bank will be a long-lasting institution and will be able to provide long-term capital through its investments
- Flexibility: the Bank will have flexibility to adapt and respond to changing market conditions.

Investment principles

The Treasury's Framework Document set four investment principles against which the Bank should assess its infrastructure investments:

1) The investment supports the Bank's objectives to drive regional and local economic growth or tackle climate change.
2) The investments will prioritise clean energy, transport, digital, water and wate sectors.
3) The investment are intended to deliver a positive financial return in line with the Bank's financial framework. The Treasury has set the Bank a return on equity target of 2.5-4.0%.[34]
4) The investment is expected to crowd-in significant private capital over time.[35] This means that the Bank's investments should encourage and attract additional private sector finance.

The Bank's first Annual Report and Accounts were published on 24 November 2022. It reported that in the Bank's first year, to 31 March 2022, a £104 million profit (after tax) was made, representing a 30% return on equity.[36]

1.6 Priority areas for investment

The Treasury has set the Bank's primary focus for investment as the five economic infrastructure sectors covered in the National Infrastructure Strategy:

- clean energy,
- transport,

[34] NAO, Creation of the UK Infrastructure Bank, 1 July 2022.
[35] HM Treasury, UK Infrastructure Bank: Framework document, 17 June 2021, para 4.1.
[36] UKIB, Annual Report and Accounts 2021-22, 24 November 2022.

- digital,
- water and
- waste.[37]

In its March 2022 letter on strategic priorities, the Treasury asked the Bank to prioritise projects that align with the government's "renewed focus on energy security", such as low-carbon energy projects and improving energy efficiency of buildings.

The Bank's Strategic Plan

The Bank's first annual Strategic Plan (June 2022) set out further details of the Bank's interpretation of its investment principles and areas of focus.[38] It included where the Bank sees the most opportunity for its early investments and some Key Performance Indicators (KPIs) for measuring its impact.

It said that while several of the Bank's early investments had focused on the roll-out of gigabit broadband, over time the Bank expects clean energy to emerge as its largest sector. It has categorised clean energy into four sub-sectors: power, hydrogen, heat and buildings and greenhouse gas removal. The remainder of the Bank's portfolio will be more heavily weighted towards transport and digital. The Bank expects that water and waste are likely to be the smallest sectors, because it currently sees the fewest investment opportunities in these areas.

To measure the impact of its investments against its strategic objectives, the Bank said that for the climate objective it would look at the relative greenhouse gas emissions of a project, and for regional economic growth it would look at jobs and productivity gains. To measure additionality, it would look at the amount of private finance mobilised for each investment. The Bank stresses that its work on measuring impact is still in development.

1.7 Infrastructure Bank funding

How much initial funding does the Bank have available to invest?

The Treasury has provided an initial £22 billion funding to the Bank over its first five years, consisting of £12 billion in capital (of which £5 billion is equity and £7 billion is debt) and £10 billion of guarantees.

37 HM Treasury, UK Infrastructure Bank: Framework document, 17 June 2021.

38 UKIB, Strategic Plan 2022, June 2022.

Of the £12 billion capital finance, £4 billion is ring-fenced for local authority projects.[39] The Bank will lend to local authority projects at a preferential rate, with each project being at least £5 million.[40] This leaves £8 billion in capital and up to £10 billion in guarantees that will be used for private finance projects.

The Government intends for the Bank to make return on its investments. The Treasury has set the Bank a return on equity target of 2.5-4.0%.[41] The Bank says it plans to generate sufficient income to cover its operating costs by financial year 2025-26.[42]

The Bank has also taken over responsibility for existing guarantees issued under the UK Share Guarantee scheme, as well as management of the Digital Infrastructure Investment Fund and Charging Infrastructure Investment Fund.[43]

What has the Bank invested in so far?

As of August 2022, the Bank said it had invested in eight deals worth £760 million and mobilised over £4.5 billion of private capital.[44] This rose to ten deals by November 2022.[45]

Its first investment was £107 million in the South Bank Quay development at Teesworks, to transform the Redcar Steelworks site along the River Tees, creating a quay to service the offshore wind sector.[46] Its first private sector investment was to support NextEnergy Capital's subsidy-free solar fund, in which the Bank plans to invest up to £250 million.[47]

Other investments include:

- £100 million to support the roll-out of gigabit-broadband across communities in South West, Midlands and South East, acting as a as co-lender to rural broadband provider, Gigaclear.[48]

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39 NAO, Creation of the UK Infrastructure Bank, 1 July 2022, para 1.11.

40 NAO, Creation of the UK Infrastructure Bank, 1 July 2022, para 13; UKIB, Strategic Plan 2022, June 2022, page 8.

41 NAO, Creation of the UK Infrastructure Bank, 1 July 2022

42 UKIB, Strategic Plan 2022, June 2022.

43 For more information about these funds see: Library briefing, Gigabit-broadband in the UK: funding for rural and hard to reach areas, 21 June 2022, section 4.3; Library briefing, Infrastructure policies and investment, 8 March 2021, section 5.3.

44 UKIB, John Flint on delivering our mission through equity investments, 15 August 2022.

45 UKIB, First year results show UK Infrastructure Bank is well placed to deliver on its ambitious goalsv, 24 November 2022.

46 UKIB, First UK Infrastructure Bank investment goes to green energy hub unlocking thousands of jobs in Teesside, accessed 27 October 2022.

47 UKIB, First private sector deal for UK Infrastructure Bank, [accessed 27 October 2022]; UKIB, UK Infrastructure Bank confirms position as cornerstone investor in UK's largest subsidy-free solar power fund, 25 August 2022.

48 UKIB, £100m UK Infrastructure Bank investment helps provide quarter of a million rural homes with ultrafast broadband, accessed 27 October 2022.

- Supporting West Midlands Combined Authority's green Sprint Bus Route in Birmingham; this is a £10 million investment together with WMCA.[49]
- £50 million as co-lender to broadband provider Fibrus to roll-out full-fibre broadband across Northern Ireland.[50]
- Up to £100 million on a match-funding basis with Octopus Investments to create a new fund to support scaling up projects targeted at reaching net zero emissions, such as electric vehicle charging and battery storage.[51]
- £200 million to broadband-provider City Fibre to support the roll-out of full-fibre broadband to 8 million UK homes.[52]
- £150 million to support the £2.4 billion NeuConnect project to develop the first undersea energy link between the UK and Germany.[53]
- Up to £100 million alongside Infracapital for digital roll-out across the UK.[54]

Some commentators have criticised the Bank's early investments in third-party infrastructure funds, arguing this outsourced responsibility and influence over funding decisions and risked investments not being directed to a market gap.[55] The Bank said it had sought to deploy its capital "sensibly and strategically" and had partnered with established companies to make an "immediate impact and start delivering on our mandate".[56] It says it is building the capacity and skills within the organisation to make direct equity investments, and expects to be doing so in 2023.[57]

The National Audit Office in July 2022 concluded that the Bank's early deals had been made in a "measured way" and that the investment structure of some of the deals were similar to those that other parts of government already make.[58] It said it would take time for the Bank to establish the

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49 UKIB, New UK Infrastructure Bank investment supports green bus route to boost connection and jobs in West Midlands, accessed 27 October 2022.

50 UKIB, UK Infrastructure Bank investment to support thousands of rural homes to access ultrafast broadband in Northern Ireland, accessed 27 October 2022.

51 UKIB, UK Infrastructure Bank to support multi-million-pound fund with Octopus Investments to boost investment in green sectors critical to the UK's net zero ambitions, accessed 27 October 2022.

52 UKIB, UK Infrastructure Bank to act as cornerstone lender in CityFibre deal to bring high quality full fibre broadband to millions of homes across England and Scotland, accessed 27 October 2022.

53 UKIB, UKIB steps up mission to boost energy security by financing first ever UK-Germany energy, 21 July 2022.

54 UKIB, UKIB is investing up to £100 million alongside Infracapital and other private investors to support digital rollout across the UK, 25 August 2022.

55 UK Infrastructure Bank criticised for investing in third party funds, Gill Plimmer, Financial Times, 29 May 2022 [subs only].

56 UK Infrastructure Bank criticised for investing in third party funds, Gill Plimmer, Financial Times, 29 May 2022 [subs only].

57 UKIB, John Flint on delivering our mission through equity investments, 15 August 2022.

58 NAO, Creation of the UK Infrastructure Bank, 1 July 2022, para 9.

internal processes that would enable it to make higher-risk equity investments.[59]

1.8 Commentary on the Bank

National Infrastructure Commission

The NIC welcomed the establishment of the Bank.[60] In its Infrastructure Progress Review (March 2022) the NIC said that the Bank was one area where the Government was making positive progress on meeting its Infrastructure Strategy.[61] It said that the Bank demonstrated the government's "long-term thinking and commitment to change" and welcomed that the Government had taken on board many of the NIC's recommendations when establishing the Bank. It said that the Bank was already making a difference with its early deals.[62]

It highlighted that the Bank alone is not intended to be a "magic bullet" for financing UK infrastructure, noting that it's £22 billion available finance represents a "small proportion of the overall financing needed" for the government's infrastructure goals.[63] It said that clear policy and a stable regulatory environment is needed to mobilise the significant volume of private finance required. It said that the Government was at "risk of failing to deliver" the aims of the National Infrastructure Strategy more generally without more detailed policy implementation across other parts of the Strategy.[64]

National Audit Office and Public Accounts Committee

The NAO published a report on the Bank's set-up, progress and future challenges in July 2022: The Creation of the UK Infrastructure Bank.[65]

The NAO found that the Bank had been set up quickly and that consequently some important planning steps were skipped. It described this as an "unusual approach" but that the Treasury had put in place controls to protect taxpayers' money.

The NAO said that at initial set up, the business case for the Bank contained no detailed analysis of how the Bank's available capital was set or how the sectors or technologies where the Bank could most usefully invest were identified. It said that the Bank needs to continue to improve how it assesses its investment needs and evaluates its impact to ensure it is targeting

59 NAO, Creation of the UK Infrastructure Bank, 1 July 2022, para 9.
60 NIC, Armitt heralds "important milestone" as new Infrastructure Bank opens, 17 June 2021.
61 NIC, Infrastructure Progress Review 2022, March 2022.
62 NIC, Infrastructure Progress Review 2022, March 2022.
63 NIC, Infrastructure Progress Review 2022, March 2022, page 63
64 NIC, Infrastructure Progress Review 2022, March 2022.
65 NAO, Creation of the UK Infrastructure Bank, 1 July 2022.

investment where it is most needed. The NAO said it was too early to say if the Bank will be a success.

The NAO highlighted that the Bank was a relatively expensive institution – in terms of establishment and staff costs – and that managing the Bank's approach to risk would be a key challenge for determining its value and success. The NAO said that stakeholders wanted the Bank to be innovative and take risks that others cannot or will not. While bigger risks have potential consequences for public money, the NAO said that taking a too conservative an approach could lead to an "expensive institution undertaking activities that other parts of government could do more cost-effectively".[66]

The Public Accounts Committee (PAC) carried out an inquiry on the creation of the UK Infrastructure Bank following the NAO's report. The PAC's report raised questions about the independence, strength and value of the first deals made by the new UK Investment Bank.[67]

Similarity to other institutions

Commentators have noted the similarity of the Bank to earlier institutions, in particular, the Green Investment Bank (GIB).[68] The Green Investment Bank was established by the Government in 2012 to increase the level of green investment in the UK.

Like the UK Infrastructure Bank, the Green Investment Bank was a publicly-owned company with operational independence from government. At launch it had £3 billion of funding from the government to invest. In 2015 the Government announced it would sell the Bank, and its sale to Macquarie Group completed in 2017.

In March 2018 House of Commons Public Accounts Committee report on the Green Investment Bank concluded it failed to live up to its original ambitions.[69] The committee found that while the Bank had been successful in attracting private investment into some sectors, such as offshore wind, the government did not know whether it had achieved its intended objectives of encouraging investment in the green economy and "creating an institution that lasts".[70]

The NAO noted that the Bank bears "strong similarities" to the Green Investment Bank, as well as to the British Business Bank (which aims to

66 NAO, Creation of the UK Infrastructure Bank, 1 July 2022, para 3.29.

67 PAC News Release, "Rushed" UK Infrastructure Bank operated outside UK Corporate Governance code for first year, 16 January 2023; PAC, The Creation of the UK Infrastructure Bank, 25 January 2023, HC 45 2022-23

68 Library briefing, Green Investment Bank: Proposed Sale, 24 January 2017; Gov.uk Green Investment Bank [accessed 27 October 2022]

69 House of Commons Public Accounts Committee, 'The sale of the Green Investment Bank', 14 March 2018, HC 468 of session 2017–19, p 3.

70 House of Commons Public Accounts Committee, 'The sale of the Green Investment Bank', 14 March 2018, HC 468 of session 2017–19, p 3.

improves access to finance for small businesses).[71] It noted that the UK Infrastructure Bank is larger than these institutions, both in scale (the public resources behind it) and in scope.[72] The NAO said that it saw evidence of the government learning lessons from the establishment of these previous institutions.

Labour party

The Labour Party in March 2021 argued that the Government's proposals for the Bank were too small in scale and would not "plug the gap" left by the loss of European Investment Bank finance in the UK. It highlighted that the Office of Budget Responsibility did not adjust its forecasts for economic growth following the Bank's announcement, "given the scale of its operations". The party argued that the Government's plans for the Bank were "dwarfed by the national investment banks in France and Germany".[73]

External commentators

Some commentators have questioned the need for a new infrastructure bank. For example, an article in the Financial Times in February 2021 reported that some investors had argued there was plenty of private sector capital that is ready to invest. They argued that the Bank would need to be careful not to "crowd out" private sector finance and should concentrate on investments that are otherwise too risky for private sector investments.[74]

Academics from the London School of Economics argued in April 2021 that the Bank's objective to help deliver net zero emissions should include a requirement to ensure a "just transition".[75] They defined this as the move to net zero emissions being "fair for all workers and communities". They said that the Bank should ensure that it's climate investments also bring social co-benefits. They referred to other institutions that have a just transition as a specific part of their remit, including the European Investment Bank and the European Bank for Reconstruction and Development (EBRD).[76]

1.9 Reaction to the bill

Responding to the Queens Speech in May 2022, climate change think tank E3G described the creation of the Bank as an "important step" towards meeting

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71 NAO, Creation of the UK Infrastructure Bank, 1 July 2022, para 3.

72 NAO, Creation of the UK Infrastructure Bank, 1 July 2022, para 3.

73 Labour Party, Government's new infrastructure bank will have no effect on growth and is 147 times smaller than Germany's, 4 March 2021.

74 Investors look to Sunak for clarity on new UK infrastructure bank, Gill Plimmer and Jim Pickard, Financial Times, February 2021 [subs only].

75 The new UK Infrastructure Bank can drive the just transition: here's how, LSE Grantham Research Institute, 22 April 2021.

76 The new UK Infrastructure Bank can drive the just transition: here's how, LSE Grantham Resarch Institute, 22 April 2021.

climate change targets. However, it said that “questions remained” about the Bank’s borrowing powers, noting that the Bank is bound by an unpublished financial returns target.[77] It also noted that the bill in its initial form “fell short” by not specifying the Bank’s role in supporting energy efficiency and nature.[78]

Environment campaign group Green Alliance in July 2022 described the Bank as a “beacon of hope”, but said it was “worrying” that there were no safeguards in the bill to prevent the Bank investing in activities that run counter to the government’s environmental aims. It argued that the Bank’s objectives should be broadened to include support for nature recovery.[79] Other environmental commentators have also argued that nature-based greenhouse gas removal technologies should be specifically incorporated into the bill.[80]

There was lengthy debate during the House of Lords stages of the bill on the Bank’s environmental objectives. Two amendments were made to add energy efficiency and nature-based solutions to the definition of infrastructure in the bill – see Section 3 below for further discussion.

77 E3G, UK Infrastructure Bank Bill announced in Queens Speech, 10 May 2021. The NAO’s July 2022 report on the Bank stated that the Treasury has set a return on equity target of 2.5-4%.

78 E3G, UK Infrastructure Bank Bill announced in Queens Speech, 10 May 2021.

79 Green Alliance, Green infrastructure is economic infrastructure, 6 July 2022.

80 Aldersgate Group, The UK Infrastructure Bank should lead on net zero and nature, 1 July 2022; Green Alliance, Green infrastructure is economic infrastructure, 6 July 2022.

2 The Bill

The aim of the bill is to place the UK Infrastructure Bank (the Bank) on a specific statutory footing. The bill consists of 11 clauses.

Clause 1 defines the Bank as being the existing company registered with Companies House under the name UK Infrastructure Bank Limited. The main provisions follow in clauses 2 to 9, which are broadly split into three main areas:

- Clauses covering the Bank's objectives and activities
- Clauses regarding the types of financial assistance the Bank would provide, including giving power to lend to local authorities
- Clauses regarding Bank's operation and governance, including accountability to the Treasury, and reporting and board requirements

Clauses 10 contains definitions and Clause 11 covers commencement and extent.

2.1 Clause 2: objectives and activities

Clause 2 would set the Bank's objectives, activities and the definition of infrastructure on a statutory footing. It includes a delegated power to enable the Treasury to modify the Bank's activities or the definition of infrastructure, but not the Bank's strategic objectives.

Subsections (1) and (2) would require the Bank to ensure that it's articles of association reflect the statutory objectives and activities as set out in this clause.

Strategic objectives

Clause 2 subsection (3) would provide that the Bank's objectives are to:

- Help tackle climate change (including efforts to meet the target for net zero greenhouse gas emissions by 2050)[81] and
- Support regional and local economic growth.

81 As set out in the Climate Change Act 2008, section 1.

The Bank's objectives and activities were first set out in the Treasury's Policy Design document for the Bank (March 2021). They were further clarified in the Framework Document (June 2021) and the Treasury's March 2022 letter to the Bank on priorities (see Box 1, page 13 above).

Activities and functions

Subsection (4) would define the Bank's activities to provide financial assistance and advisory services for infrastructure projects, including loans to local authorities.

The activities are set out as follows:

- Providing financial assistance to projects "wholly or mainly" relating to infrastructure – this means that the Bank can support 'mixed' projects, for example a transport hub that includes some housing.[82]
- Providing loans to relevant public authorities. Clause 10 specifies that relevant public authorities include local authorities. Together these clauses provide a specific legal basis for the Bank to lend to local authorities.[83]
- Providing advice and other support services in relation to such infrastructure projects
- Any other activities that are incidental or related to the above activities. The explanatory notes say that this provision is intended to give the Bank flexibility to carry out its activities in the most effective manner.[84]

Subsection (6) provides that when exercising its activities, the Bank must have regard to the public interest in targeting investment that:

- improves productivity, pay, jobs and living standards and
- reduces economic disparities between the nations and regions of the UK.

These provisions reflect the Government's ambitions to address geographical inequalities in the UK as set out in the Levelling Up White Paper. [85] Subsection (6) was added as an opposition amendment during the Lords report stage, moved by Labour peer Lord Tunnicliffe (see section 3.3 below).[86]

Subsection (7) provides a delegated power for the Treasury to amend the Bank's activities by regulation under the affirmative procedure.

82 Explanatory Notes (PDF), para 35; HL Deb 24 May 2022, c792.
83 Clause 2(4) and Clause 10; Explanatory Notes (PDF) para 72.
84 Explanatory Notes (PDF) Para 30.
85 DLUHC, Levelling Up the United Kingdom, 2 February 2022.
86 HL Deb 4 July 2022 (Amendment 12).

Definition of infrastructure

Clause 2, subsection (5) provides a definition of infrastructure for the purposes of the Bank's activities.

Infrastructure is defined to include: "structures underpinning the circular economy, and nature-based solutions, technologies and facilities relating to":

- water, electricity, gas, telecommunications and sewerage services, including energy efficiency
- railways, roads and other transport infrastructure
- climate change (including removing greenhouse gases from the atmosphere).

The definition is in some respects broader and in some respects narrower than similar definitions in other legislation.[87] The explanatory notes explain the definition reflects the Government's current policy intention that the Bank focus on economic infrastructure, rather than social infrastructure (such as health, prisons, education facilities etc).

Another key difference to previous legislation is the explicit reference to climate change technologies, nature-based solutions, energy efficiency and the circular economy. The references to nature-based solutions, the circular economy and energy efficiency were added as amendments during the House of Lords stages (see section 3.3 below).[88]

The explanatory notes define nature-based technologies as those:

> protecting, restoring and managing the natural environment in ways that contribute to addressing socioeconomic challenges such as climate change mitigation or adaptation, flooding and coastal erosion, protecting food and water supplies; and improving water quality.

The explanatory notes define the "circular economy" as infrastructure that can:

> help reduce or eliminate waste and pollution, increase resource-use efficiency, keep products and materials in use for longer, recycle products and materials at the end of life, increase the use of renewable materials and energy sources, and regenerate nature.

The explanatory notes highlight that the definition is inclusive and otherwise relies on the "natural definition of the word infrastructure". The delegated

87 Such as the Infrastructure (Financial Assistance) Act 2012 and sections 50 and 51 of the United Kingdom Internal Market Act 2020; Explanatory Notes (PDF) Para 32.

88 HL Deb 4 July 2022; the reference to nature-based solutions and the circular economy was a cross-bench amendment moved by Baroness Hayman (amendment 6A). The reference to energy efficiency was a Government amendment (amendment 8).

power in subsection (7) would allow future governments to amend this definition by regulations under the affirmative procedure.

2.2 Clauses 3-4: Treasury statement of strategic priorities and directions

Clause 3 would require the Treasury to prepare a statement of strategic priorities for the Bank and lay a copy before Parliament. It would require the Bank to act in accordance the Treasury's statement.[89]

The Treasury must produce the first strategic statement within six months of the Act coming into force. The Treasury may revise the statement and the Bank must update its strategic plans accordingly.

The explanatory notes say that it is the Government's policy intention that a strategic steer under Clause 3 would not normally be issued more than once a Parliament.[90]

The Government published a non-statutory strategic statement in the form of a letter to the Bank on 18 March 2022 (see Box 1 page 13 above). It encourages the Bank to prioritise opportunities that align with the Government's recent focus on energy security and gives more detail on how the Bank should interpret its strategic objectives.[91] The Government intends this letter to form the first statutory strategic statement after the Act comes into force.[92]

Clause 4 would give the Treasury power to give a general or a specific direction to the Bank about how to deliver its objectives. The Treasury must consult with the Bank's board before making a direction. The Bank must comply with any such direction.

The notes explain that the Government's policy is that the Bank is independent and therefore such influence should be used sparingly in practice.[93]

The explanatory notes say this power is consistent with powers the Government has to direct other similar institutions.[94] There was considerable debate during the House of Lords stages about the implications of this power on the independence of the Bank (see Section 3).

89 By requiring the Bank to ensure that it's articles of association and strategic plans reflect this.
90 Explanatory Notes (PDF) para 39.
91 Explanatory Notes (PDF) para 41.
92 Explanatory Notes (PDF) para 42.
93 Explanatory Notes (PDF) Para 48-51.
94 Explanatory Notes (PDF) para 53

2.3 Clause 5: Financial assistance

Clause 5 provides a specific legal basis for the Treasury to provide financial assistance to the Bank for the purpose of helping the Bank deliver its objectives. This could include money paid out of the National Loans Fund made directly to the Bank, where the Treasury would determine the interest rate and terms and conditions of the loan.[95]

Financial assistance is defined in Clause 10 to include loans, guarantees, indemnities, participation in equity financing and "any other kind of financial assistance (actual or contingent)".

Currently, financial assistance provided by the Bank is made under the Infrastructure (Financial Assistance) Act 2012 and the United Kingdom Internal Market Act 2020.[96] The explanatory notes explain that the Government wanted to give a specific form of statutory authority for financial assistance in the bill to reflect the specific nature of the Bank's remit and "policy intention that the Bank be an enduring institution".[97]

2.4 Clause 6: Annual reports and accounts

Clause 6 would require the Bank's directors to deliver to the Treasury a copy of its annual reports and accounts that it has produced in accordance with its obligations under the Companies Act 2006 as soon as reasonably practicable.[98] The Clause requires the Treasury to lay a copy of those reports and accounts before Parliament.

2.5 Clause 7: Bank directors

Clause 7 would set requirements for the Bank's appointment of directors and ensure these are reflected in the Bank's articles of association.

It would provide that the Bank has:

- Between 5 and 14 directors

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95 The Explanatory Notes explain that this means that the Treasury can direct funds from the National Loan Fund directly to the Bank and have control over the terms, without the Treasury having to access the Loan Fund first and the on-lend to the Bank (Explanatory Notes (PDF), para 56).

96 Explanatory Notes (PDF) para 54.

97 Explanatory Notes (PDF) para 54.

98 Section 441 of the Companies Act; Explanatory Notes (PDF) para 57.

- That the chair, chief executive officer and non-executive directors are to be appointed by the Chancellor.
- That non-executive directors serve a term of at most 4 years and that a person may be appointed as a non-executive director for a maximum of two terms.
- That a person ceases to be a non-executive director when a person is prohibited from being a director by law (e.g. becomes bankrupt etc)

The explanatory notes say that the number of directors is broadly consistent with the size of comparable boards, such as the Bank of England board.[99] The provisions supplement existing provisions in company law and the Bank's Framework Document as regards board appointment and tenure.[100] Section 1.2 above sets out appointments to the Bank's board to date.

2.6 Clause 8: Enforcing the Bank's duties

Clause 8 would provide a power for the Treasury to enforce any duty imposed on the Bank by the bill in the Courts.

The explanatory notes say the provision is to ensure that the Bank's legal duties have an "appropriate legal status" and that it is not envisaged that the provisions will be needed in practice.[101]

2.7 Clause 9: Reviews of the Bank

Clause 9 would require the Chancellor to appoint an independent person to carry out reviews of:

- the effectiveness of the Bank in delivering its objectives (to tackle climate change and support local economic growth) and
- its impact including the extent to which its investments have encouraged additional investment by the private sector.

The reference to requiring a review of additionality of the Bank's investments was added as a Government amendment during the Lords report stage, as was the requirement for the review to be undertaken by an independent person.[102]

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99 Explanatory Notes (PDF) para 60

100 Corporate Governance Code 2018, the Companies Act 2006, and the Bank's existing Framework Document. Explanatory Notes (PDF) para 61.

101 Explanatory Notes (PDF) para 64

102 HL Deb 4 July 2022; Government amendments 22, 23, 25-29, 31 and 33 to Clause 9.

The independent person must prepare a report that is submitted to the Treasury. The Treasury must publish the report and lay it before Parliament.

The first review must be within 7 years and subsequent reviews at intervals of not more than 7 years. The explanatory notes say that this timeframe was chosen to "allow these reviews to be effective and comprehensive, while also allowing the Bank time to embed itself and to see the return and impact of its investments, which are likely to be long-term in nature".[103] The first review is likely to be at the end of the 7-year period.[104] The 7-year time period was reduced from an initially-proposed period of 10-years in a Government amendment during the Lords report stage, in response to concerns from many peers that 10 years was far too long (see Section 3.3 below).

The Treasury has also committed to review the Bank's progress and financial performance by the spring 2024. It says this review would be a different focus from the independent statutory review and consider "market demand, prospective projects and sufficiency of capital".[105]

2.8 Clause 10 and 11: Interpretation, commencement, and extent

Clause 10 sets out definitions of key terms in the bill (which are explained above where relevant).

Clause 11 provides that:

- The bill would come into force on the day two months after Royal Assent
- That the bill extends to the whole of the UK.

Infrastructure spending in devolved areas (such as transport and water) is devolved, therefore legislative consent motions are being sought from the devolved administrations (see Box 3).

The final provision Clause 11(4) is a technical privilege amendment because the bill started in the House of Lords and authorises new public expenditure. It will be removed in committee after the financial resolutions have been agreed to.

103 Explanatory Notes (PDF) para 68
104 Explanatory Notes (PDF) para 68
105 HM Treasury, Policy Design of the UK Infrastructure Bank, 3 March 2021 and Explanatory Notes (PDF) para 69.

Box 3: Legislative consent motions

While broadly welcoming the bill and its overall purpose, both the Welsh and Scottish governments sought further assurances as to the role of devolved nations in the governance of the Bank before recommending legislative consent. The Government made several amendments during Committee stage regarding the role of the devolved nations (see section 3.2 and 3.3 below).

The Welsh Government laid a legislative consent memorandum in the Senedd in May 2022.[106] It said its final decision on whether to recommend legislative consent was subject to further discussions with the UK Government regarding bringing forward amendments to the bill to give Welsh Ministers an "appropriate role" within the governance structures of the Bank. It says that the Welsh Government must "have an equal status to the UK Government's in governance of cross-border bodies with devolved functions which are established in UK Bills".[107]

In a supplementary legislative consent memorandum laid in the Senedd on 30 November 2022, the Welsh Government stated that it intends to recommend that the Senedd consents to the Bill.[108] It concluded that the amendments made to the bill during the Commons committee stage were a "reasonable compromise" that would enable the interests of Wales and the Welsh Government to be reflected through the workings of the Bank.

The Scottish Government laid a legislative consent memorandum in the Scottish Parliament in September 2022.[109] It said that its final decision on whether to recommend legislative consent was subject to the outcome of ongoing discussions with the UK Government regarding assurances that Scotland's interests will be properly reflected in the design and delivery of the Bank's activities. Scottish Ministers have suggested that the risk of divergence from Scottish Government policy and potential competition with the Scottish National Infrastructure Bank functions could be addressed through a Memorandum of Understanding or other similar administrative mechanism.

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106 Welsh Government, Legislative consent memorandum: UK Infrastructure Bank Bill (PDF). Accessible at Senedd Cymru, Legislative Consent: UK Infrastructure Bank Bill [accessed 27 October 2022].

107 Welsh Government, Legislative consent memorandum: UK Infrastructure Bank Bill (PDF). Accessible at Senedd Cymru, Legislative Consent: UK Infrastructure Bank Bill [accessed 27 October 2022].

108 Welsh Government, Supplementary legislative consent memorandum (Memorandum No 3) UK Infrastructure Bank Bill (PDF). Accessible at Senedd Cymru, Legislative Consent: UK Infrastructure Bank Bill [accessed 1 December 2022].

109 Updates on progress of legislative consent can be found on the Scottish Parliament website: Legislative consent memorandums: UK Infrastructure Bank Bill [accessed 27 October 2022].

3 Commons second reading and committee stage

3.1 Second reading

Second reading of the bill in the House of Commons took place on 1 November 2022.[110] The bill received broad cross-party support in general.

Chief Secretary to the Treasury, John Glen, introduced the bill. He said that the bill would finalise the Bank's set up and ensure that it is a long-lasting, enduring institution. He said the legislation would make it impossible for the government to dissolve or sell the Bank without further legislation.[111] He went on to describe the Bank and why it was set up and outlined the provisions in the bill.

Shadow Financial Secretary, James Murray, said that the Opposition supported the bill and the establishment of the Bank.[112] He discussed the Government's record on infrastructure investment. He said that the Opposition would be defending the changes made to the bill by the House of Lords and would bring additional amendments to strengthen the bill and the Bank during the Commons stages.[113] For example, he called for a requirement for the Bank to have a workers' representative on its board.

Stewart Hosie for the SNP broadly welcomed the Bank and the bill.[114] He highlighted that it was important that the Bank support the devolved governments' objectives and noted the similarity of the Bank's objectives to the Scottish National Investment Bank.[115] He called for an administrative mechanism, such as a memorandum of understanding, to ensure policy alignment between the two institutions. He argued that the devolved nations, and other government departments, should have a role in developing the statutory strategic statement of priorities for the Bank.[116]

Sarah Olney for the Liberal Democrats also supported the bill. She said that the Liberal Democrats' main concern was that the finance available through

110 HC Deb 1 November 2022, c819.
111 HC Deb 1 November 2022, c819.
112 HC Deb 1 November 2022, cc822-823.
113 HC Deb 1 November 2022, cc824-825.
114 HC Deb 1 November 2022, c827.
115 HC Deb 1 November 2022, c827-828.
116 HC Deb 1 November 2022, c828.

the Bank is "very small in comparison to the challenges faced with levelling up and climate change".[117]

Independent Welsh MP Jonathan Edwards raised concerns about an insufficient role for the devolved executives. He argued that the devolved executives should have a role in each appointing a director and called for a requirement for the Bank to appear before Senedd committees.[118] He noted that the Welsh Government would not recommend granting legislative consent until these concerns about governance and accountability with respect to the devolved nations were addressed.

Conservative backbench MP Richard Fuller welcomed the bill describing it as "sensible". He said that he agreed with the amendments made in the Lords on the circular economy and nature-based solutions.[119] He called for more weight to be given to the Bank's commitment to generate a positive financial return and for more transparency regarding the Bank's financial framework and how it will be scrutinised.[120]

3.2 Committee stage: Summary

The bill was considered by a Public Bill Committee over two sittings on 22 November 2022.[121] The Committee had 17 Members.[122]

Several Government amendments were made during Committee which:

- removed the reference to "structures underpinning the circular economy, and nature-based solutions" (added during the Lords stages) from the definition of infrastructure in clause 2(5).[123] The Opposition did not support the amendment, which was successful on a division.[124]
- Removed clause 2(6), which reversed the amendment added by the Lords to require that the Bank consider levelling up metrics (reducing geographic inequalities and improving pay, productivity and living standards) when carrying out its activities.[125] The Opposition did not support the amendment, which was successful on a division.[126]
- Added provisions to require consultation with the devolved nations and to require that one director on the Bank's board must be responsible for

117 HC Deb 1 November 2022, c831.
118 HC Deb 1 November 2022, c831
119 HC Deb 1 November 2022, c825-6.
120 HC Deb 1 November 2022 c827.
121 PBC Deb 22 November 2022. See House of Commons Official Report, UK Infrastructure Bank Bill [Lords], Compilation pdf of sittings, 22 November 2022.
122 UK Infrastructure Bank Bill [Lords], Commons General Committee, Membership.
123 Amendment 1; PBC Deb 22 November 2022 c16.
124 Division 3, PBC Deb 22 November 2022 c18.
125 Amendment 2; PBC Deb 22 November 2022 c16.
126 Division 4, PBC Deb 22 November 2022 c18.

the interests of the devolved nations.[127] These amendments were agreed without a division.

- Technical amendments to allow the Bank to loan to public authorities other than local governments and Northern Ireland departments and remove the privilege amendment required for the House of Lords.[128] These amendments were agreed without a division.

Several opposition amendments were moved and pushed to division but did not pass. These included:

- to add to the Bank's objectives specific levelling up metrics (reducing geographic inequalities and improving pay, productivity and living standards) and an objective to support supply chain resilience and industrial strategy.[129]
- To add a requirement that one of the Bank's non-executive directors must be a workers' representative.[130]
- To add a requirement for the independent reviews of the Bank to include the location and ownership of the businesses and bodies in which the Bank invests, or a requirement for the Bank to report annually on this.[131]
- To add a requirement that correspondence between the Treasury and the Bank regarding directions made under clause 4 be published.[132]
- To reduce the time frame between the independent reviews of the Bank set out in clause 9.[133]

Conservative backbench MP Richard Fuller moved several amendments on topics including scrutinising the additionality and effectiveness of the Bank's investments, on the time frame between independent reviews of the Bank and on the number of directors on the Bank's board.[134] He withdrew his amendments after debate.

Treasury Minister Andrew Griffiths said that the Government had noted the Committee's concerns regarding the 7-year time frame for independent reviews of the Bank, which Members on both side of the Committee considered was too long. He said the Government would consider bringing an amendment at report stage to reduce the 7-year time frame given in clause 9(5).[135] He said the Government did not intend to amend the time period for the first review, set at 7-years after the Act comes into force (clause 9(4)) as

127 Amendments 3-6. PBC Deb 22 November 2022 cc19-22 and 30.
128 Amendments 7-9; PBC Deb 22 November 2022 cc15, 47-48.
129 Amendments 17 and 18. PBC Deb 22 November 2022 c9.
130 Amendment 20. PBC Deb 22 November 2022, c30.
131 Amendment 23. PBC Deb 22 November 2022, c49.
132 Amendment 19. Division 5. PBC Deb 22 November 2022, cc25-26.
133 Amendments 21 and 22. PBC Deb 22 November 2022, c42.
134 Amendments 10, 12, 13, 15, 16.
135 PBC Deb 22 November 2022, c43.

there would be other non-statutory reviews during this time period. For example, the Cabinet Office's review of the Bank promised for 2024.[136]

3.3 Government amendments made during committee stage

Nature-based solutions and levelling up metrics

The Government moved amendments 1 and 2 to remove provisions added to clause 2 of the bill during the Lords report stage.[137] The Opposition did not support either amendment.

Amendment 1 removed the reference to "structures underpinning the circular economy, and nature-based solutions" in the definition of infrastructure in clause 2(5). Amendment 2 removed clause 2(6) which would have required the Bank to have regard to levelling up metrics (reducing geographic inequalities and improving productivity, pay and living standards) when exercising its functions.

The Government argued that the Bank has a "broad mandate with flexibility to support a wide range of projects to help tackle climate change and to support regional and local economic growth".[138] Treasury Minister Andrew Griffith pointed to the review of the Bank's environmental mandate earlier in the year (see Box 2 on page 14 above), after which the Treasury's strategic steer letter to the Bank clarified that nature-based solutions were in scope of the climate change objective and something that the Bank should pursue.[139] On levelling up the Minister said that while the Government did not disagree in principle, the provision would "over-fetter the discretion of the Bank" arguing that the levelling up principles would need to be considered for every investment.[140] He argued that the primary legislation was not the place to set out those requirements.

The Opposition did not support the Government's amendments. Shadow Finance Secretary James Murray said that the amendments suggested that the Government were "unwilling to follow through on solutions to the climate emergency" and wished to "remove commitments to support better pay and the reduction in economic disparities".[141]

The amendments were successful on division, 10 votes to 6.[142]

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136 PBC Deb 22 November 2022 c47.
137 PBC Deb 22 November 2022 c16.
138 PBC Deb 22 November 2022 c16.
139 HM Treasury, Chancellor's letter to the UK Infrastructure Bank, 18 March 2022.
140 PBC Deb 22 November 2022 c17.
141 PBC Deb 22 November 2022 c17.
142 Divisions 3 and 4, PBC Deb 22 November 2022 c18.

Consultation with the devolved nations

The Government moved amendments that would require the Treasury to consult with the devolved nations when:

- making regulations to change the Bank's activities or the meaning of infrastructure (amendment 3 to clause 2); and
- when issuing a strategic steer to the Bank that would concern matters of devolved competence (amendment 4 to clause 3).[143]

The Government also moved amendment 5 to add a requirement that one or more of the Bank's directors be responsible for ensuring that the Board considers the interests of the devolved administrations.[144]

Government amendment 6 would add a definition of "appropriate national authority" to clause 10 to support the above changes.[145]

The Minister said that the amendments came because of "positive engagement" that the Government had had with the devolved administrations regarding legislative consent to date.[146]

The Opposition supported the amendments, which were agreed without a division.[147]

Government amendments 8 and 9 to broaden definition of public authority beyond local authorities and Northern Ireland departments, were also agreed without a division.[148] The Government said that while the original drafting supported the Government's policy aims it did not wish to be inadvertently restrictive in the future.

3.4 Other amendments

This section summarises the debate on some other unsuccessful amendments that were debated during Committee.

Clause 2 – the Bank's objectives

Conservative backbench MP Richard Fuller and the Opposition moved amendments that sought to add to the Bank's objectives set out in clause 2(3).

143 PBC Deb 22 November 2022 c19.
144 PBC Deb 22 November 2022 c30.
145 PBC Deb 22 November 2022 c19.
146 PBC Deb 22 November 2022 c19.
147 PBC Deb 22 November 2022 cc20, 22, 30.
148 PBC Deb 22 November 2022 c15.

Richard Fuller moved amendment 10, which sought to add an additional objective for the Bank to create long-term financial returns to its shareholders.[149] He argued that the Bank's investments could involve significant risk for the UK taxpayer and asked the Government for more clarity on where the Bank sits on the "spectrum of risk". Treasury Minister Andrew Griffith responded that the Framework Document sets out that the Bank must generate a financial return, which is set at 2.5-4% in the Bank's strategic plan by the end of 2025/26.[150] He argued that putting this in the bill could create legal problems for the Bank and undermine its core purpose, for example if there were reasons outside the Bank's control which meant it could not meet the target. Mr Fuller withdrew his amendment.

Shadow Minister Abena Oppong-Asare moved amendment 17 to add levelling up metrics (to reduce geographic inequalities and improve productivity, pay and living standards) to the Bank's objectives set out in clause 2(3).[151] She argued that the amendment would make it clear that the Bank's regional growth objective is to reduce inequalities within and between regions. She argued that as it stands the Bank's investments do not have to focus on disadvantaged areas of the country. She also spoke to amendment 18, which sought to add an objective to support supply chain resilience and industrial strategy. SNP Member David Linden supported Labour's amendments.[152]

In general, the Opposition argued that firm commitments, such as the levelling up metrics, should be present on the face of the bill. Abena Oppong-Asare argued that many of the key elements of the Bank's structure were "relegated to documents that are not amendable and are legally ambiguous".[153]

In response, the Minister argued that the Government considers that the aim of reducing regional inequality is already implicit in the Bank's current objective, which provides a "clear direction for the Bank without being overly prescriptive".[154] He pointed to the Treasury's strategic steer to the Bank and the Framework Document as the more appropriate place to give detail on the objectives to "minimise legal risk across investments". The Minister said that differences in the Government and Labour's positions were to do with "process rather than outcome" and that the Government did not want to be too prescriptive on the face of the bill.[155]

The Opposition pushed the amendments to a division, which fell 6 votes to 10.[156]

149 Amendment 10, PBC Deb 22 November 2022 c4.
150 PBC Deb 22 November 2022 c8.
151 PBC Deb 22 November 2022 c9.
152 PBC Deb 22 November 2022 c11.
153 PBC Deb 22 November 2022 c23.
154 PBC Deb 22 November 2022 c13.
155 PBC Deb 22 November 2022 c24.
156 Divisions 1 and 2, PBC Deb 22 November 2022 cc14-15.

Clause 7 – the Bank's directors

Shadow Finance Minister James Murray moved amendment 20, to require the board to appoint at least one non-executive director who is a workers' representative.[157] He argued this is important for good governance. David Linden (SNP) supported the amendment. The Government said it would "thoroughly" oppose the amendment, pointing to the corporate governance code which it said provides a "number of options through which a company can achieve" worker representation.[158] James Murray also pointed to the corporate governance code, noting it states that a company should explain what arrangements were in place to facilitate worker engagement and that such an explanation was lacking from the Bank.[159] The amendment fell on division, 6 votes to 10.[160]

Clause 9 – Reviews of the Bank

Both the Opposition and Conservative MP Richard Fuller moved amendments that sought to reduce the time period for the independent reviews of the Bank. The Opposition's amendments called for a 5-year review period, describing the 7-year period as "shocking".[161] The Opposition highlighted that the Government's levelling up targets are set for 2030, within a similar time period for the first review.[162] Labour MP Nick Smith argued that it would be appropriate for reviews to fall once a Parliament.[163] Richard Fuller argued that a shorter time period was required during the Bank's early stages to enable sufficient transparency and exposure as the Bank is established.[164]

The Minister said that he had heard the concerns coming from both sides of the Committee on this issue and that he would consider returning with an amendment at report stage to reduce the time period for subsequent reviews of the Bank in clause 9(5).[165] He said the Government did not intend to change the initial review period (clause 9(4)) from 7 years because there would be other reviews of the Bank in that time, including the Cabinet Office's review of the Bank promised for 2024.[166]

Shadow Minister Abena Oppong-Asare also moved amendment 23 to require that the independent reviews of the Bank consider the location and ownership of businesses and bodies that the Bank invests in.[167] She raised concerns that the Bank's investments would be made to offshore businesses and argued

157 PBC Deb 22 November 2022, c30.
158 PBC Deb 22 November 2022, c32.
159 PBC Deb 22 November 2022, c31.
160 Division 6. PBC Deb 22 November 2022, c32.
161 PBC Deb 22 November 2022, c42.
162 PBC Deb 22 November 2022, c42-43.
163 PBC Deb 22 November 2022, c45.
164 PBC Deb 22 November 2022, c42.
165 PBC Deb 22 November 2022, cc43-45.
166 PBC Deb 22 November 2022, c47.
167 PBC Deb 22 November 2022, c39.

that the Bank should be "supporting businesses in the UK".[168] The Opposition also moved New Clause 1 on the same topic, that sought to require the Bank to report annually on the location and ownership of the businesses in which it has invested.[169]

The Government did not support the amendment or new clause, arguing that the Bank's investments would be "highly transparent", reported to Parliament and that information on company ownership was available from Companies House.[170] Both amendments were defeated on division, 6 votes to 10.[171]

168 PBC Deb 22 November 2022, c40.
169 PBC Deb 22 November 2022, c49.
170 PBC Deb 22 November 2022, c40.
171 Division 7 and Division 10. PBC Deb 22 November 2022, cc41, 49.

4 House of Lords stages

4.1 Second reading

Second reading in the House of Lords was held on 24 May 2022.[172]

Baroness Penn for the Government explained that one of the main reasons for the bill is to establish the operational independence of the Bank as a long-term enduring institution. She said the bill would ensure that the Government cannot sell or dissolve the Bank, or change Bank's objectives, without further primary legislation.

There was broad cross-party support for the bill in principle. Some conservative Peers, including Baroness Noakes and Lord Davies, however, were not convinced that the bill (or the Bank) was needed.[173]

Several peers raised concerns about aspects of the bill that would become the focus of subsequent stages. Key themes included:

- That the statutory review period set out in Clause 9 was too long and that the review ought to be independent of government (the bill as introduced to the Lords set the first statutory review period as 10 years).[174]
- Discussion of the Bank's governance: There were concerns raised about the independence of the Bank from the Treasury, in particular on power of direction in Clause 4.[175] Some peers called for the Bank's board members to be required to have specific relevant expertise including on environmental matters.[176]
- Concerns were raised about the role of the devolved administrations in relation to the Bank.[177]

Another key area of discussion was on the content of the Bank's objectives and the definition of infrastructure. Peers on all sides of the House called for biodiversity and natural capital to be mentioned in the bill as a priority for the

172 HL Deb 24 May 2022
173 HL Deb 24 May 2022 cc801, 810.
174 Including Lord Teverson, Baroness Noakes, Baroness Young, Lord Sarfraz
175 HL Deb 24 May 2022 c797 (Lord Bourne of Aberystwyth)
176 HL Deb 24 May 2022 c799 (Lord Thomas of Cwmgiedd)
177 HL Deb 24 May 2022 c799 (Lord Thomas of Cwmgiedd) and c815-816 (Lord Wigley)

Bank, and for the objective on local economic growth to be more specifically aligned to the Government's levelling-up agenda.[178]

Some peers called for biodiversity to be included as a third statutory objectives (along with climate change and supporting local economic growth), whereas others called for biodiversity and nature-based solutions to be included at least in the definition of infrastructure.[179] It was argued that biodiversity and climate change are interrelated areas that should be an equal focus of Government policy and the Bank's activities.[180] Peers noted the Government's previous actions in this area, including accepting the recommendations of the Dasgupta Review on biodiversity and adopting biodiversity targets in the Environment Act. Some peers also argued that natural-capital solutions were the sort of high-risk infrastructure areas that the Bank should be investing in, because they are lacking in private investment currently and such projects are said to deliver good returns.[181]

Other environmental issues were also raised as lacking in the bill, including the circular economy and energy efficiency.[182] In response, the Government highlighted that it had specifically consulted and reviewed the Bank's environmental objectives (see Box 2 above), and found that the Bank's existing climate change objective was sufficient in scope to cover these additional areas. It said that this was specifically clarified in the government's strategic steer to the Bank.[183]

Some peers argued that the Bank's objective to promote "local economic growth" was insufficiently specific and should be more closely tied to reducing geographic disparities as consistent with the Government's levelling up agenda.[184]

Concerns were also raised about the extent to which the objectives on local economic growth and climate change would work together. Peers called for a "do no harm" principle to be added to the bill, to require that none of the Bank's investments would do harm to the environment or climate change.[185] The government argued that it is sufficient that this principle is included in the Framework Document and strategic steer letter.[186]

Baroness Noakes raised concerns that the concept of additionality was missing from the bill, given it is a key rationale for the Bank (to crowd in private finance). She raised concerns about the potential for the Bank's investments to crowd-out private finance.[187] Lord Teverson raised concerns that the Bank's investments would be risk-averse (due to pressure from the

178 Including Lord Teverson, Baroness Young, Baroness Hayman.
179 HL Deb 24 May 2022 c805 (Baroness Hayman), c812 (Baroness Boycott).
180 HL Deb 24 May 2022 c794 (Lord Teverson).
181 HL Deb 24 May 2022 c805 (Baroness Hayman).
182 HL Deb 24 May 2022 Lord Teverson, Baroness Young.
183 HM Treasury, Chancellor's letter to the UK Infrastructure Bank, 18 March 2022.
184 HL Deb 24 May 2022 Lord Ravensdale, Baroness Bennett.
185 HL Deb 24 May 2022 c803 (Baroness Young of Old Scone).
186 HL Deb 24 May 2022 c829 (Baroness Penn).
187 HL Deb 24 May 2022 c802.

Treasury to turn a profit) and therefore was "far from convinced" that the Bank would fill areas that the private sector were not willing to enter.[188]

4.2 Committee stage

Committee stage in the House of Lords was held on 14 June 2022.[189] No amendments were made in Committee, but Peers discussed several amendments on the themes raised at second reading, some of which were returned to during report stage.

A key issue discussed during committee stage was the status of the 'Framework Document' that sets out the Bank's operating principles and relationship with the Treasury (see Box 1 page 13 above).[190] Several peers argued that the document extended beyond day-to-day operational matters to include strategic and policy principles that ought to be included in the bill or have a greater level of Parliamentary scrutiny.[191]

There were 9 groups of amendments discussed during Committee, on the following themes:

1) The financial regulation and independence of the Bank
2) Nature-based solutions and biodiversity
3) Further environmental amendments including on for energy efficiency and resource reduction to be included in the bill.
4) The principle of additionality – that the Bank's activities should crowd-in (not crowd-out) private sector investment.
5) The Bank's operating principles: that the operating principles in the Framework Document should be on face of the bill.
6) The delegated power in Clause 2 (which would allow the Government to change Bank activities and the definition of infrastructure) and the power of the Treasury to give directions the Bank (Clause 4).
7) The Bank's reporting requirements and the content of the Bank's statutory reports.
8) The Bank's board members, including the balance of skills and representatives from the devolved administrations.

188 HL Deb 24 May 2022 c796.
189 HL Deb 14 June 2022.
190 HM Treasury, UK Infrastructure Bank: Framework Document, 17 June 2021.
191 For example, HL Deb 14 June 2022 c1531 (Baroness Naokes), c1535 (Lord Vaux of Harrowden).

9) The statutory review period – that it should be independent of Treasury and on much shorter timescales.

Areas where there was significant cross-party support included amendments to add nature-based solutions to the bill, amendments relating to additionality with respect to private sector investment and on the statutory review period.

4.3 Report stage and third reading

There were ten Government amendments and two opposition and cross-bench amendments made during report stage. The amendments were to Clause 2 (regarding the definition of infrastructure and the Bank's functions) and Clause 9 (reviewing the Bank).

Clause 2: Definition of infrastructure

The Government moved Amendment 8, which clarified that energy efficiency is included within the definition of infrastructure. It was agreed without division.[192]

Crossbench peer Baroness Hayman moved Amendment 6A to specify that "nature-based solutions and the circular economy" be included in the definition of infrastructure set out in Clause 2(5).[193] It was one of several amendments that aimed to specify more environmental purpose in the bill. It was agreed on division, 182 votes to 153.[194]

Clause 2: Bank's functions and levelling up

Labour peer Lord Tunnicliffe moved Amendment 12, to add a requirement that the Bank have regard to levelling up metrics when exercising its functions, including targeting investment in a manner that improves productivity, pay jobs and living standards and reduces economic geographic disparities.

It was agreed on division, 172 votes for to 158 against.[195]

Clause 9: Reviewing the Bank

Baroness Penn on behalf of the Government moved a series of amendments to Clause 9 to bolster the provisions regarding the review of the Bank.[196]

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192 HL Deb 4 July 2022 c891.
193 HL Deb 4 July 2022 c867.
194 HL Deb 4 July 2022 Division 1, c890.
195 HL Deb 4 July 2022 Division 2, c893.
196 HL Deb 4 July 2022 from c913 (amendments 22 and 23, 25 to 29, 31 and 33).

Changes included:

- Requiring the reviews to be carried out by an independent person rather than the Treasury.
- Adding a requirement that the reviews consider the additionality of the Bank's investments (that is, the extent to which the Bank's investments have encouraged additional private sector investment)
- Changing the time period for the first review from 10 years to 7 years (to be consistent with the time period for future reviews).

These amendments followed from debate in committee where there was widespread support from across the House that the original review period of 10 years was far too long and that the review should be independent.

While some peers across all benches still felt that 7 years was too long, the amendment was widely welcomed and agreed without division.[197]

Amendments not made

Crossbench peer Lord Thomas moved Amendment 21 which would have added a requirement for consultation with devolved governments on "three crucial aspects" of the bill, including the power to amend the Bank's activities by delegated legislation, the ability to appoint board members and the creation of the statement of strategic priorities.[198]

Baroness Penn for the government argued that it would not be appropriate to bring this amendment until negotiations on legislative consent motions had been properly pursued.[199] She said that the Commons would be the place to raise them if this were needed to secure legislative consent. Neither the Scottish Parliament or Senedd have yet given legislative consent and Welsh and Scottish Ministers have sought further assurances from the government (see Box 3 above).

The amendment was pushed to a division but was not agreed.[200]

Other areas for discussion that were not pushed further included:

- Calls to strengthen the requirement for the Bank to review its impact on private sector investment, to ensure the review also covers the extent to which the Bank has crowded out private investment, if any.[201]

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197 For example Lord Vaux, Baroness Kramer, Lord Tunnicliffe argued 7 years was still too long.

198 HL Deb 4 July 2022 from c900 (amendment 21, Lord Thomas of Cwmgiedd).

199 HL Deb 4 July 2022 c907-908.

200 HL Deb 4 July 2022 Division 3, c913.

201 From example from Lord Holmes, Baroness Noakes, Lord Vaus, Baroness Bennett and Baroness Kramer

- Amendments in relation to the absence of the Framework Document from the face of the bill.[202]
- That the Henry VIII delegated power in Clause 2(7) be subject to the super affirmative procedure to enable proper Parliamentary scrutiny.[203]
- Calls for further transparency with respect to the power of direction in Clause 4. Concerns were raised that any reservation notice setting out concerns of the Bank in relation to a Treasury direction are not required be published.[204] Baroness Penn for the Government gave assurances that the Section 15 of the Framework Document would be updated to take to make it clear the Treasury could not prevent the publication of a reservation notice from the Bank. The document has not yet been updated.
- The qualifications of the Bank's board members.[205]

Third reading was held on 11 July 2022.[206] No amendments were put forward.

202 For example see: HL Deb 4 July 2022 from c899 (Lord Thomas of Cwmgiedd) and c901 (Lord Vaux of Harroden).
203 HL Deb 4 July 2022 c896-897 (Lord Sharkey, amendment 13).
204 HL Deb 4 July 2022 c898 Lord Sharkey.
205 HL Deb 4 July 2022 c909 (Lord Thomas of Cwmgiedd, amendment 20).
206 HL Deb 11 July 2022.