



Energy Bill [HL] HL Bill 39 of 2022–23

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The House of Lords is scheduled to debate the government's [Energy Bill](#) at second reading on 19 July 2022. The bill was introduced on 6 July 2022.

The government has said the bill is based on three key pillars:

- Leveraging investment in clean technologies (parts 1, 2 and 3).
- Reforming the UK's energy system and protecting consumers (parts 4 to 9).
- Maintaining the safety, security and resilience of the energy systems across the UK (parts 10, 11 and 12).

It has also said the bill's 243 clauses and 19 schedules, taken together, would deliver 26 separate measures. In a [press release published to accompany the bill](#), it listed these under the pillars above. In respect of leveraging investment in clean technologies, the measures range from those aimed at accelerating the growth of low carbon technologies, including carbon capture usage and storage (CCUS) and hydrogen, to providing clarity on the regulatory regime for fusion energy facilities. On reforming the UK's energy system and protecting consumers, they range from enabling the extension of the energy price cap beyond 2023, to enabling the Competition and Markets Authority to review any relevant energy network company mergers and appointing Ofgem as the new regulator for heat networks in Great Britain. Finally, on maintaining safety, security and resilience, measures provided for in the bill range from those aimed at preventing fuel supply disruption at oil terminals and filling stations, to providing for a geological nuclear disposal facility be located beneath the seabed and enabling the Civil Nuclear Constabulary to support the security of other critical infrastructure sites.

The bill follows the '[British energy security strategy](#)' published in April 2022. It also follows several energy-related government strategies, policy documents, consultations and calls for evidence published over recent years. A selection of these is highlighted in a further reading list.

The government has published a series of [factsheets](#) on measures within the bill. It has also published a [delegated powers memorandum](#), a [human rights memorandum](#), [impact assessments](#) and a [summary impact assessment](#) to accompany the proposed legislation.

During the debate on the May 2022 Queen's Speech, the Labour Party termed the trailed bill as "hopelessly inadequate", while the Liberal Democrats questioned how the measures in the bill would help deal with near-term energy pressures alongside longer-term issues.

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I. What would the bill do?

In a press release published to accompany the Energy Bill's introduction in the House of Lords, the Department for Business, Energy and Industrial Strategy listed 26 measures contained within the bill.¹ The list illustrated the wide range of areas covered by the bill's provisions and appeared under three headings, reflecting what the government has termed the "three key pillars" within the proposed legislation.²

Under a heading on reforming the UK's energy system and protecting consumers, the release listed 13 measures. It said the bill would:

- Enable the extension of the energy price cap beyond 2023.
- Establish a new independent future system operator, which would coordinate and plan Great Britain's energy system, looking across electricity, gas and other markets such as hydrogen and carbon capture, utilisation and storage (CCUS).
- Encourage competition in onshore electricity networks by finding new, efficient and innovative ways to build and deliver network solutions by inviting new parties to participate in this market.
- Enable the Competition and Markets Authority (CMA) to review any relevant energy network company mergers through the energy network special merger regime.
- Protect consumers with new protections for smart appliances and requirements for organisations who control them.
- Drive industry progress on the smart meter rollout.
- Create a new governance framework for energy codes, which would allow Ofgem to ensure that the technical and commercial rules of the electricity and gas markets could adapt.
- Reduce the number of cabling, landing points and substations by allowing the licensing of multi-purpose interconnectors.
- Facilitate the deployment of electricity storage, such as batteries and pumped hydro storage.
- Enable the government to establish a buy-out mechanism under the energy company obligation (ECO) scheme for suppliers.
- Appoint Ofgem as the new regulator for heat networks in Great Britain.
- Kickstart the development of heat networks and enable heat network zoning in England.
- Provide a replacement power following Brexit to enable the UK government to amend the EU-derived energy performance of

¹ Department for Business, Energy and Industrial Strategy, '[Plans to bolster UK energy security set to become law](#)', 6 July 2022.

² [Explanatory notes](#), p 8. Note that the government also refers to the bill as the Energy Security Bill in documentation.

buildings regime.

Under a heading of leveraging investment in clean technologies and building a homegrown energy system, the release listed five measures. It said the bill would:

- Accelerate the growth of low carbon technologies including CCUS and hydrogen by providing long-term revenue certainty to attract private investment.
- Establish the economic regulation and licensing framework to enable the set-up and scale-up of CO₂ transport and storage networks.
- Enable the delivery of a large village hydrogen heating trial by 2025, providing evidence to inform strategic decisions in 2026 on the role of hydrogen in heat decarbonisation.
- Help establish a market-based mechanism for the low-carbon heat industry to increase investment and lower the cost of electric heat pumps, while scaling up domestic manufacturing and installation.
- Provide clarity on the regulatory regime for fusion energy facilities, thereby removing uncertainty for the fusion industry.

Under a heading on ensuring the safety, security and resilience of the UK's energy system, the release listed eight measures. It said the bill would:

- Bring forward measures for downstream oil (fuel) security to prevent fuel supply disruption, including from industrial action, malicious protest and for reasons of national security.
- Enhance the UK's nuclear third-party liability regime to provide for greater compensation, removal of investment barriers and reassurance to private sector investors for new nuclear.
- Facilitate the safe and cost-effective clean-up of the UK's nuclear sites, including provisions for a geological nuclear disposal facility.
- Enable existing oil and gas legislation to be updated, ensuring that the offshore environmental regulatory regime maintains high standards.
- Allow the North Sea Transition Authority to identify and prevent a potentially undesirable change of control of oil and gas and carbon storage infrastructure before it happens.
- Allow the government to more fully recover the costs associated with regulating offshore oil and gas decommissioning activities.
- Bring forward the final delicensing and reuse of nuclear sites.
- Enable the Civil Nuclear Constabulary to support the security of other critical infrastructure sites.

The government has published 26 factsheets providing further detail on the measures above.³ In addition, it has published explanatory notes, a delegated powers memorandum, a human rights memorandum, and a summary impact assessment (alongside a series of full impact assessments).⁴ These are large documents, with the collated impact assessments totalling 733 pages.

2. Background

In the context of rising energy prices, concerns about energy security, and advances in renewables and other low-carbon technologies, the government argues that its Energy Bill will “deliver a cleaner, more affordable and more secure energy system for the long term”.⁵

The bill was trailed in the Queen’s Speech delivered on 10 May 2022. Speaking on behalf of the monarch, Prince Charles said:

My ministers will bring forward an Energy Bill to deliver the transition to cheaper, cleaner, and more secure energy. This will build on the success of the COP26 summit in Glasgow last year.⁶

In background briefing notes published to accompany the speech, the government explained that the bill would have three main benefits:⁷

- To maintain a safe and secure energy supply and helping to protect consumers against global price fluctuations.
- To protect consumers from unfair energy pricing.
- To attract private investment and support new, skilled jobs across the UK.

The government has published a summary impact assessment for the bill which claims that the bill will deliver the following benefits:⁸

- Primary legislation in this bill is estimated to have a net benefit to society of around £300mn, despite an annual net direct cost to business of around £9mn.

³ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill: Factsheets](#)’, 6 July 2022.

⁴ UK Parliament, ‘[Energy Bill: Publications](#)’, accessed 13 July 2022.

⁵ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Overarching](#)’, 6 July 2022, p 4. See also: House of Commons, ‘[Written statement: Energy update](#)’, 6 July 2022, HCWS185.

⁶ [HL Hansard, 10 May 2022, col 1](#).

⁷ Prime Minister’s Office, ‘[Queen’s Speech 2022: Background briefing notes](#)’, 10 May 2022, p 32.

⁸ Department for Business, Energy and Industrial Strategy, ‘[Energy Bill: Summary impact assessment](#)’, 6 July 2022, p 4.

- Initial illustrative estimates suggest that the secondary legislation to implement the measures in this bill will have a significant additional net benefit to society.
- For the measures where consumer bill impacts have been quantified, there is estimated to be a small average annual energy bill cost of less than just £1 for dual fuel households out to 2030. However, several policies help improve system efficiencies and therefore provide consumer savings in the long run. Wider impacts on bills from other policies are uncertain and depend on future funding decisions.
- The bill includes measures on heat network zoning and clean heat market mechanism, with estimated greenhouse gas emissions savings of around 70 MtCO₂e, amounting to a social benefit of around £13bn based on the government's carbon values.

2.1 Policy background

The measures contained within the Energy Bill follow several government policy papers and consultations published in recent years.

The most recent of these is the government's 'British energy security strategy' (BESS), published in April 2022.⁹ The government has said that the measures in the bill would deliver the commitments made in the BESS.¹⁰ It earlier said the objectives of the strategy were to reduce the UK's consumption of fossil fuels and increase domestic UK energy production.¹¹ The strategy included a commitment to increase low-carbon hydrogen production, which the government said would account for at least half of the hydrogen gas produced in the UK by 2030. The strategy also said the government would seek to increase the use of nuclear energy to meet a quarter of the UK's electricity demand by 2050.

Announcing the strategy in the House of Commons, Secretary of State for Business, Energy and Industrial Strategy Kwasi Kwarteng said the document "provides a clear, long-term plan to accelerate our transition away from expensive fossil fuel prices set by global markets we cannot control".¹² He described it as confirmation of "three mutually reinforcing goals of our energy policy [...] security, affordability and sustainability". He added:

Producing more of our own energy will protect us into the future. We

⁹ Department for Business, Energy and Industrial Strategy, '[British energy security strategy](#)', 7 April 2022

¹⁰ Department for Business, Energy and Industrial Strategy, '[Delegated powers memorandum: Energy Bill](#)', 6 July 2022, para 4.

¹¹ House of Lords Library, '[Queen's Speech 2022: Energy and climate change](#)', 5 May 2022.

¹² [HC Hansard, 19 April 2022, cols 75–6.](#)

feel that this historic change, this decarbonisation challenge, represents a huge opportunity for the United Kingdom: more wind, more solar and more nuclear, while also using North Sea gas to transition to cheaper and cleaner power. This is a long-term plan to ensure greater energy independence and to attract hundreds of billions of private investment to back new industries that can create hundreds of thousands of high-quality jobs and stimulate business across the UK. This is not only a matter of reaching net zero, vital as that is, but an issue of national security [...] We all wish to see a homegrown clean energy system that will protect our people into the future, create good clean jobs, attract private investment and, above all, drive down bills for the British people.

The strategy followed significant earlier policy documents, including the government's 'Build back greener' net zero strategy and its response to the Climate Change Committee's 2021 progress report, both of which were published in October 2021.¹³ In turn, these followed the government's 'Powering our net zero future' energy white paper, published in December 2020, and the 'Ten-point plan for a green industrial revolution', published in November 2020.¹⁴ The strategy also followed a wide range of other energy-related strategies, consultations and calls for evidence, links to a wide selection of which are included in [section 5.2 of this briefing](#).

2.2 Legal background

The Energy Bill is the largest piece of primary legislation concerning energy since the Energy Act 2013.¹⁵ The government has said the bill needs to account "for the current global context" nearly 10 years on.¹⁶

As drafted, the bill would modify a broad range of existing legislation. For example, it would amend:

- the Rights of Entry (Gas and Electricity Boards) Act 1954 and the Gas Act 1986, ahead of a hydrogen grid conversion trial
- the Nuclear Installations Act 1965, including in respect of nuclear decommissioning, low level nuclear waste regulation, fusion energy facilities and geological storage in the territorial sea

¹³ Department for Business, Energy and Industrial Strategy, '[Net zero strategy: Build back greener](#)', 19 October 2021; and '[Climate Change Committee's 2021 progress report: Government response](#)', 19 October 2021.

¹⁴ Department for Business, Energy and Industrial Strategy, '[Energy white paper: Powering our net zero future](#)', 14 December 2020; and '[Ten-point plan for a green industrial revolution](#)', 18 November 2020.

¹⁵ Department for Business, Energy and Industrial Strategy, '[Delegated powers memorandum: Energy Bill](#)', 6 July 2022

¹⁶ Department for Business, Energy and Industrial Strategy, '[Energy Security Bill factsheet: Overarching](#)', July 2022, p 5.

- the Electricity Act 1989, for a range of reasons including around the transmitting and storing of electricity
- the Petroleum Act 1998, to add a section relating to petroleum licenses and a new charging scheme for offshore installation abandonment programmes
- the Utilities Act 2000, to account for consequential changes
- the Enterprise Act 2002, to allow for changes including enabling the Competition and Markets Authority (CMA) to act in relation to mergers between two or more energy network enterprises
- the Energy Act 2004, to change the powers and remit of the Civil Nuclear Constabulary
- the Climate Change Act 2008, to broaden the number of different removal methods for greenhouse gases
- the Energy Act 2008, to provide continuity of smart meter rollout arrangements
- the Domestic Gas and Electricity (Tariff Cap) Act 2018 to enable the tariff price cap to continue beyond 2023

3. Overview of the bill

The Energy Bill is a substantial piece of legislation consisting of 243 clauses arranged over 13 parts. The bill has 19 schedules. This section provides an overview of the bill's provisions at a part-by-part level.

The bill is based on three key pillars:¹⁷

- Leveraging investment in clean technologies.
- Reforming the UK's energy system and protecting consumers.
- Maintaining the safety, security and resilience of the energy systems across the UK.

3.1 Leveraging investment in clean technologies

The headings of parts 1, 2 and 3 of the bill are as follows:

- Licensing of carbon dioxide transport and storage (part 1: clauses 1 to 55 and schedules 1 to 4).
- Carbon dioxide capture, storage etc and hydrogen production (part 2: clauses 56 to 97 and schedule 5).
- New technology (part 3: clauses 98 to 111).

¹⁷ [Explanatory notes](#), para 2.

3.1.1 Part I: Licensing of carbon dioxide transport and storage

Part I of the Energy Bill would establish Ofgem as the economic regulator of carbon dioxide (CO₂) transport and storage. It would also provide for a framework for the economic licensing of CO₂ transport and storage activities.¹⁸

The government has stated that carbon capture, usage and storage (CCUS) is likely to play “an essential role” in the UK meeting its statutory carbon emissions targets.¹⁹ CCUS is the process of capturing CO₂ emissions from fossil fuel-based power generation and industrial processes for storage deep underground or for reuse.²⁰ The bill’s explanatory notes give the example of reuse of such captured carbon in cement.²¹

The bill’s explanatory notes reference the Climate Change Committee describing carbon capture and storage as “a necessity not an option”.²² The committee also said that CCUS processes needed to be operating by 2026:

Carbon capture and storage is essential. We previously recommended that the first CCS cluster should be operational by 2026, with two clusters, capturing at least 10 MtCO₂, operating by 2030. For a net-zero target it is very likely that more will be needed. At least one of the clusters should involve substantial production of low-carbon hydrogen. The government will need to take a lead on infrastructure development, with long-term contracts to reward carbon capture plants and encourage investment.²³

A cluster is a regional group where several CCUS facilities share infrastructure.²⁴ The government has committed to support the development of two CCUS clusters “by the mid-2020s and a further two by the end of the 2020s”.²⁵

The government has published a factsheet on the bill’s CO₂ transport and storage regulatory investment model.²⁶

¹⁸ [Explanatory notes](#), para 9.

¹⁹ [Explanatory notes](#), para 6.

²⁰ United Nations Economic Commission for Europe, ‘[Carbon capture, use and storage \(CCUS\)](#)’, accessed 8 July 2022.

²¹ [Explanatory notes](#), para 6.

²² Climate Change Committee, ‘[Net zero: The UK’s contribution to stopping global warming](#)’, May 2019, p 23.

²³ Climate Change Committee, ‘[Net zero: The UK’s contribution to stopping global warming](#)’, May 2019, p 34.

²⁴ House of Commons Library, ‘[Carbon capture usage and storage](#)’, 11 March 2020, p 3.

²⁵ [Explanatory notes](#), para 7.

²⁶ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Carbon dioxide transport and storage regulatory investment model](#)’, July 2022.

3.1.2 Part 2: Carbon dioxide capture, storage etc and hydrogen production

Part 2 of the bill would make provision for “spending powers to provide financial assistance to support the establishment of CCUS, low carbon hydrogen production and hydrogen transportation and storage”.²⁷

Whilst burning hydrogen does not produce CO₂, the production of hydrogen itself could involve the use of electricity that was generated through a process that produced CO₂. The government has established the ‘UK low carbon hydrogen standard’ to define what constitutes ‘low carbon hydrogen’ at the point of production.²⁸

Between August and October 2021, the government consulted on a commercial model to “unlock private investment and address market barriers to deploy low carbon hydrogen production at scale”.²⁹ In its response to the consultation, the government set out the design of a “contractual producer-focused business model” that would provide revenue support to a number of “low carbon hydrogen production pathways to facilitate hydrogen use in a broad range of sectors”.³⁰

Delegated powers under part 2 of the bill would provide for the establishment of a “detailed framework” for such business models.³¹ This would include “the designation and duties of a counterparty to enter into and manage business model contracts with carbon capture entities, CO₂ transport and storage companies, and low carbon hydrogen producers”.³² The government’s delegated powers memorandum for the Energy Bill describes the provisions in part 2 on ‘carbon dioxide capture, storage etc and hydrogen production’ as “framework clauses”.³³ It argues that as a nascent industry, future developments in the area are difficult to predict and so provisions for a “broad regulatory framework” were needed:

These areas require provisions being made for a broad regulatory framework with appropriate and robust parliamentary controls in place. These frameworks will ensure the department has the correct regulatory tools at its disposal to ensure that these aspects of the UK’s energy system can adapt and flourish into the future to support the

²⁷ [Explanatory notes](#), para 14.

²⁸ Department for Business, Energy and Industrial Strategy, ‘[UK Low Carbon Hydrogen Standard: emissions reporting and sustainability criteria](#)’, June 2022.

²⁹ [Explanatory notes](#), para 13.

³⁰ [Explanatory notes](#), para 14. The government’s consultation response is available here: Department for Business, Energy and Industrial Strategy, ‘[Government response to the consultation on a low carbon hydrogen business model](#)’, April 2022.

³¹ [Explanatory notes](#), para 14.

³² [Explanatory notes](#), para 14.

³³ Department for Business, Energy and Industrial Strategy, ‘[Delegated powers memorandum: Energy Bill](#)’, 6 July 2022, para 8.

UK's net zero legal commitments, whilst providing sufficient parliamentary oversight.³⁴

The delegated powers memorandum also identifies the bill's provisions on low-carbon heat schemes (under part 3, chapter 1) and heat networks regulation (under part 7) as also falling into this category.³⁵ It also made reference to powers in the bill that were "based on legislation or take powers to amend legislation which was originally made under section 2(2) of the European Communities Act 1972". It stated that these powers may also be regarded as framework clauses, these were provisions on energy smart appliances (under part 8, chapter 2), energy performance of premises (under part 9), and oil and gas environmental protection (under clauses 225 to 226).

The government has published a factsheet on the bill and hydrogen and industrial carbon capture business models.³⁶

Other provisions in part 2 include:

- Powers to appoint an allocation body to administer the competitive allocation process for hydrogen production and carbon capture revenue support contracts.³⁷
- Powers to raise a levy or levies to fund the hydrogen business model. The explanatory notes state that the detailed design of the levies would be subject to further consultation.³⁸
- Granting the Oil and Gas Authority (OGA) new ex-ante (before the event) powers to "ensure that the governance, technical and financial capability of a licensee in possession of a carbon storage licence is not undermined by an undesirable change of control".³⁹

The government has published a factsheet on the bill and OGA and change control.⁴⁰

3.1.3 Part 3: New technology

Part 3 of the bill would make provision in relation to new technologies relating to low-carbon heat schemes; trials for testing the use of hydrogen

³⁴ Department for Business, Energy and Industrial Strategy, '[Delegated powers memorandum: Energy Bill](#)', 6 July 2022, para 8.

³⁵ Department for Business, Energy and Industrial Strategy, '[Delegated powers memorandum: Energy Bill](#)', 6 July 2022, para 8.

³⁶ Department for Business, Energy and Industrial Strategy, '[Energy Security Bill factsheet: Hydrogen and industrial carbon capture business models](#)', July 2022.

³⁷ [Explanatory notes](#), para 237.

³⁸ [Explanatory notes](#), para 14.

³⁹ [Explanatory notes](#), para 271.

⁴⁰ Department for Business, Energy and Industrial Strategy, '[Energy Security Bill factsheet: OGA change of control powers prior to a change of control event](#)', July 2022.

for heating buildings; and for explicitly excluding fusion energy facilities from requiring a nuclear site licence under the Nuclear Installations Act 1965.

The bill would give the secretary of state power to make regulations to establish and operate one or more low-carbon heat schemes. The bill defines such a scheme as one “encouraging the supply or installation in the United Kingdom of relevant heating appliances through the imposition of low-carbon heat targets on persons to whom the scheme applies”.⁴¹ The explanatory notes give electric heat pumps as an example of a low-carbon heating appliance.⁴² The government has published a factsheet on the bill and low-carbon heat schemes.⁴³

Alongside heat pumps, the government has said that low carbon hydrogen could be a “key option” for “decarbonising heat in buildings”.⁴⁴ The government intends to pilot the use of hydrogen through “a neighbourhood trial by 2023, a village scale trial by 2025 and a potential hydrogen heated town before the end of the decade”.⁴⁵ The bill includes provisions “that allow trial operators to deliver the trial safely and effectively, and provisions to ensure that consumers are protected”.⁴⁶ The government has published a factsheet on the bill and enabling a hydrogen village trial.⁴⁷

Part 3 would also make provision in relation to fusion energy facilities. Nuclear fusion is the same process that powers the sun.⁴⁸ It involves the fusing of atomic nuclei under extreme heat and pressure, which produces huge amounts of energy. Conventional nuclear reactors involve splitting atoms apart to produce energy, a process called nuclear fission. The International Atomic Energy Agency (IAEA) has stated that nuclear fusion could generate four times more energy per kilogram of fuel than fission “and nearly four million times more energy than burning oil or coal”. The IAEA has put this into the following context:

Most of the fusion reactor concepts under development will use a mixture of deuterium and tritium—hydrogen atoms that contain extra neutrons. In theory, with just a few grams of these reactants, it is possible to produce a terajoule of energy, which is approximately the energy one person in a developed country needs over sixty years.⁴⁹

⁴¹ Clause 98(2).

⁴² [Explanatory notes](#), para 17.

⁴³ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Low carbon heat scheme](#)’, July 2022.

⁴⁴ [Explanatory notes](#), para 18.

⁴⁵ [Explanatory notes](#), para 18.

⁴⁶ These are set out in clause 108 (‘modifications of the gas code’) and clause 109 (‘regulations for protection of consumers’).

⁴⁷ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Enabling the hydrogen village trial](#)’, July 2022.

⁴⁸ International Atomic Energy Agency, ‘[What is nuclear fusion](#)’, 31 March 2022.

⁴⁹ International Atomic Energy Agency, ‘[What is nuclear fusion](#)’, 31 March 2022.

Fusion reactions do not emit CO₂ or other greenhouse gases. Fusion technology is currently being researched and the IAEA has said that the time taken to realise the technology “will depend on mobilising resources through global partnerships and collaboration, and on how fast the industry will be able to develop, validate and qualify emerging fusion technologies”. The IAEA added that whilst fusion reactions have been successfully produced in experiments, they have not so far generated more energy than was required to start the reaction. The world’s largest fusion experiment, the ITER, is currently being constructed in France.⁵⁰

The UK Atomic Energy Authority (UKAEA) is running a programme called ‘Spherical Tokamak for Energy Production’ (STEP) which “will demonstrate the ability to generate net electricity from fusion”.⁵¹ UKAEA has shortlisted five potential sites in the UK at which to build STEP.⁵²

Fusion energy sites are not identified by the Nuclear Installations Act 1965 as requiring a nuclear site licence. The bill would amend the 1965 act to confirm that fusion energy facilities would not require nuclear site licences. The explanatory notes argue that this would enable “a regulatory framework for fusion that is appropriate and proportionate to the overall hazard of a fusion energy facility”.⁵³

The government has published a factsheet on the bill’s provisions on fusion regulation.⁵⁴

3.2 Reforming the UK’s energy system and protecting consumers

The headings of parts 4 to 9 are as follows:

- Independent system operator and planner (part 4: clauses 112 to 132 and schedules 6, 7 and 8).
- Governance of gas and electricity industry codes (part 5: clauses 133 to 152 and schedules 9, 10 and 11).
- Market reform and consumer protection (part 6: clauses 153 to 164 and schedules 12, 13 and 14).
- Heat networks (part 7: clauses 165 to 185 and schedule 15).
- Energy smart appliances and load control (part 8: clauses 186 to 197 and schedule 16)

⁵⁰ International Atomic Energy Agency, ‘[ITER: The World’s largest fusion experiment](#)’, accessed 8 July 2022.

⁵¹ UK Atomic Energy Authority, ‘[Spherical tokamak for energy production](#)’, accessed 8 July 2022. A tokamak is form of reactor technology.

⁵² UK Atomic Energy Authority, ‘[Finding STEP a home](#)’, accessed 8 July 2022.

⁵³ [Explanatory notes](#), para 21.

⁵⁴ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Fusion regulation](#)’, July 2022.

- Energy performance of premises (part 9: clauses 198 to 201)

3.2.1 Part 4: Independent system operator and planner

Part 4 of the bill would establish an Independent System Operator and Planner (ISOP) for the electricity and gas supply sectors. The government has argued that the different potential routes to decarbonising the energy system means that there is “an ever-greater requirement for expert and coordinated strategic advice and recommendations”.⁵⁵

The ISOP would be a public sector body, operationally independent of the government. The ISOP would have responsibility “for planning the development of the electricity and gas transmission systems and operation of the electricity transmission system”.⁵⁶ In addition, it would “take on a range of additional net zero focused roles, helping drive a more open, flexible and efficient system, and is expected to result in a net saving on energy bills”.⁵⁷

The explanatory notes state that many of the ISOP’s proposed functions are currently carried out by licensed operators owned by National Grid plc. The bill would provide for the transfer of the whole, or parts of, these operators as part of ISOP’s establishment. The ISOP would be regulated by the Gas and Electricity Markets Authority (GEMA).

The government has published a factsheet on the bill’s provisions on the ISOP.⁵⁸

3.2.2 Part 5: Governance of gas and electricity industry codes

Part 5 of the bill would make provision for a new governance framework for the energy codes. The energy codes are rules that govern electricity and gas supply:

The energy codes are the detailed technical, operational and commercial rules of the electricity and gas systems, which cover areas like generation, transmission, distribution, supply and retail. They are documents that in most cases act as multi-lateral contracts between industry signatories, each of which is governed by some form of industry-led panel or board with the support of an appointed ‘code administrator’.⁵⁹

⁵⁵ [Explanatory notes](#), para 22.

⁵⁶ [Explanatory notes](#), para 23.

⁵⁷ [Explanatory notes](#), para 23.

⁵⁸ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Future system operator](#)’, July 2022.

⁵⁹ [Explanatory notes](#), para 27.

The 2020 energy white paper argued that the energy codes needed to be “overhaul[ed] to ensure that they are fit for purpose as we transition to a clean energy system”.⁶⁰ The government has subsequently run two consultations on energy code reform, one in 2019 and one in 2021.⁶¹ The government responded to the most recent consultation in April 2022.⁶²

The bill would implement reform by:

[G]ranted GEMA, Ofgem’s decision-making board, a collection of new code-related functions, such as the ability to direct strategic change across the codes, and by creating code management as a new licensable activity. It also includes transitional powers that will make it possible for the GEMA to facilitate the necessary changes to implement the new code governance framework.⁶³

The government has published a factsheet on the bill and code governance.⁶⁴

3.2.3 Part 6: Market reform and consumer protection

Part 6 of the bill would introduce reforms to the energy market and make provisions related to consumer protection. These include in the following areas:

- Extending the existing **competitive tendering for electricity projects** to onshore network solutions
- Making changes to the **energy network special mergers regime** to enable the Competition and Markets Authority (CMA) to “investigate more effectively the impacts of mergers between energy companies”.⁶⁵
- Requiring operators of **multi-purpose interconnectors** to have a licence from Ofgem. The government has said that an increased interconnector capacity “upwards of 18 gigawatts is needed to support a flexible decarbonising grid ready for net zero”.⁶⁶ The explanatory notes referenced a government target “to achieve 50 gigawatts of offshore wind generation by 2030”.

⁶⁰ HM Government, ‘[Energy white paper: Powering out net zero future](#)’, December 2020, CP 337, p 86.

⁶¹ Department for Business, Energy and Industrial Strategy, ‘[Reforming the energy industry codes](#)’, 22 July 2019 (updated 14 December 2020); and ‘[Energy code reform: Governance framework](#)’, 20 July 2021 (updated 6 April 2022).

⁶² Department for Business, Energy and Industrial Strategy and Ofgem, ‘[Government response to the consultation on Energy Code Reform](#)’, April 2022.

⁶³ [Explanatory notes](#), para 26.

⁶⁴ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Code governance](#)’, July 2022.

⁶⁵ [Explanatory notes](#), para 4.

⁶⁶ [Explanatory notes](#), para 38.

- Allow the secretary of state to extend the **default tariff price cap** beyond 2023 if they “determine that the conditions for effective competition in domestic supply contracts are not yet in place”.⁶⁷
- Formalising **electricity storage** as a distinct subset of generation within the Electricity Act 1989 in order to “remove the current ambiguities and provide clarity and certainty over its treatment within the existing frameworks and possible future frameworks”.⁶⁸
- Expanding the powers of the **energy company obligation (ECO)** scheme to give energy suppliers the option to meet their ECO obligations “simply by making a payment to an approved third party for an approved purpose”. This would reflect the government’s “commitment to establish a fair and competitive market by allowing smaller suppliers to fulfil their ECO obligation in a more cost-effective way”.⁶⁹
- Extend certain existing powers in relation to **smart meters** which are due to expire on 1 November 2023 for an additional five years, until 1 November 2028. This would enable the secretary of state to “intervene where required to drive the rollout of smart meters in line with the annual targets imposed on gas and electricity suppliers through licence conditions for the 4 years to 2025”.⁷⁰

Subject to security of supply, the government has said that it will “fully decarbonise the electricity system by 2035” in order for the UK to reach net zero by 2050 and “achieve independence from imported fossil fuels”.⁷¹ The government also expects that decarbonising sectors such as transport and heating will double electricity demand by 2050. It has argued that to accommodate this increase Great Britain’s electricity network infrastructure needs to be significantly increased.

On the extension of the existing competitive tendering for electricity projects, the government has argued that creating “new competitive markets” would improve opportunities to invest in electrical network capacity and improve efficiency in investment.⁷² It would also foster “innovative solutions to network needs”. The government has said that this is also expected to “encourage greater levels of inward investment to help provide sufficient additional electricity network capacity to meet growing demand in Great Britain”.

⁶⁷ [Explanatory notes](#), para 44.

⁶⁸ [Explanatory notes](#), para 48.

⁶⁹ [Explanatory notes](#), para 52.

⁷⁰ [Explanatory notes](#), para 56.

⁷¹ [Explanatory notes](#), para 29.

⁷² [Explanatory notes](#), para 32.

The explanatory notes state that the existing competition regime for offshore transmission assets has “saved consumers over £800mn to date”. It states that the bill would amend the Electricity Act 1989 to “extend this competitive process to enable competition to identify onshore network solutions, including smart and flexible options as well as traditional wire-based solutions”.⁷³

On the default tariff price cap, the government has said that it “remains a temporary measure until competition in the market improves”.⁷⁴ The government has argued that removing the price cap before effective competition in the market is established would risk “return of the loyalty penalty resulting in millions of households being excessively charged for their energy”. The government has said it is committed to the introduction of long-term policies that would enable such competition.

The Energy Bill would enable the price cap to be extended past 2023 “if the relevant conditions for extension are met, to ensure protection for domestic supply consumers is not removed prematurely”. The provisions would work as follows:

Where the secretary of state concludes that the conditions for effective competition have not been met for domestic supply contracts, the secretary of state must lay an affirmative statutory instrument to extend the tariff cap conditions for two years at a time. Exceptionally, the secretary of state will also have the option to extend the cap for a single year, if they believe there is a significant prospect of the conditions for effective competition being present in the market before the end of that year.

There is no specified longstop date in the bill, reflecting the need to remain flexible and keep the price cap in place until the conditions for effective competition for domestic supply contracts are in place.⁷⁵

The government has published factsheets on the bill and competition in onshore electricity networks; defining electricity storage; the energy company obligation; the energy network special merger regime; the default tariff price cap; multi-purpose interconnectors; and smart metering.⁷⁶

⁷³ [Explanatory notes](#), para 31.

⁷⁴ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Default tariff \(price cap\)](#)’, July 2022, p 4.

⁷⁵ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Default tariff \(price cap\)](#)’, July 2022, pp 4–5.

⁷⁶ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Competition in onshore electricity networks](#)’; ‘[Energy Security Bill factsheet: Defining electricity storage](#)’; ‘[Energy Security Bill factsheet: Energy company obligation \(ECO\) buy-out mechanism](#)’; ‘[Energy Security Bill factsheet: Energy network special merger regime](#)’; ‘[Energy Security Bill factsheet: Default tariff \(price cap\)](#)’; ‘[Energy Security Bill factsheet: Multi-purpose interconnectors](#)’; ‘[Energy Security Bill factsheet: Smart metering](#)’, July 2022.

3.2.4 Part 7: Heat networks

Part 7 of the bill relates to heat networks. A heat network is a distribution system that transfers heat from a central source and delivers it to several different domestic or non-domestic dwellings.⁷⁷ This is sometimes also called ‘district heating’. The source of the heat could be a dedicated facility for heat production, or it could be heat recovered from industry and urban infrastructure. The government has argued that heat networks are “particularly attractive” in high-density areas such as cities, and that they can “deliver a wide variety of benefits to the environment, to consumers and to the wider economy”.⁷⁸ The government has said that at present sector specific protections for heat network consumers do not exist.⁷⁹

The bill’s explanatory notes state that there are more than 14,000 heat networks in the UK, providing heating and hot water to around 480,000 consumers.⁸⁰ In July 2018, the Competition and Markets Authority (CMA) published a market study on how well the heat networks market was working.⁸¹ The CMA found that for “many” customers they appeared to offer an “efficient” supply of heat and hot water at the same or lower prices than other sources and to a “comparable service standard”.⁸² However, the CMA found that some people got poorer price and service outcomes, particularly people on “certain privately-operated schemes”. The CMA identified what it described as three drivers of these concerns: “property developers, heat network operators and customers having different interests; monopoly supply and delivery models; and low transparency”.⁸³ The CMA recommended that the sector was regulated, by which it meant “a statutory scheme should be set up under which the sector regulator has powers to set regulatory requirements, rules and guidance for heat networks”.⁸⁴ In the 2020 energy white paper the government stated that “we intend to legislate in this Parliament for the regulation of heat networks to protect consumers and reduce carbon emissions”.⁸⁵

Provisions in the Energy Bill would regulate heat networks and would extend Ofgem’s role to cover them.⁸⁶ Part 7 is identified in the government’s delegated power’s memorandum as containing framework clauses.⁸⁷

⁷⁷ Department for Business, Energy and Industrial Strategy, ‘[Heat networks](#)’, 11 April 2022.

⁷⁸ Department for Business, Energy and Industrial Strategy, ‘[What is a heat network](#)’, 29 March 2018, p 3.

⁷⁹ [Explanatory notes](#), para 58.

⁸⁰ [Explanatory notes](#), para 57.

⁸¹ Competition and Markets Authority, ‘[Heat networks market study](#)’, 23 July 2018.

⁸² Competition and Markets Authority, ‘[Heat networks market study](#)’, 23 July 2018, p 5.

⁸³ Competition and Markets Authority, ‘[Heat networks market study](#)’, 23 July 2018, p 5.

⁸⁴ Competition and Markets Authority, ‘[Heat networks market study](#)’, 23 July 2018, p 78.

⁸⁵ HM Government, ‘[Energy white paper: Powering out net zero future](#)’, December 2020, CP 337, p 114.

⁸⁶ [Explanatory notes](#), para 58.

⁸⁷ Department for Business, Energy and Industrial Strategy, ‘[Delegated powers memorandum: Energy Bill](#)’, 6 July 2022, para 8.

The government has published a factsheet on the bill and heat networks.⁸⁸

3.2.5 Part 8: Energy smart appliances and load control

Part 8 of the bill contains provisions on ‘energy smart appliances’ (ESAs) and load control. The explanatory notes describe ESAs as “connected devices such as smart electric heating appliances, batteries, and smart electric vehicle (EV) charge points, which can adjust their energy consumption to help deliver demand side response (DSR)”.⁸⁹ DSR refers to the shifting of electricity usage to times when it is beneficial for the energy system. The bill would include provisions to set out regulatory requirements for ESAs and to require electric heating appliances to have smart functionality and “to require certain activities related to load control to only be carried out by persons holding licences for those activities”.⁹⁰ The government would also “take new powers to mandate smart functionality for smart EV charge points, in addition to those in the Automated and Electric Vehicles Act 2018, to ensure cohesive regulation across all ESAs”.

The government has argued that there are risks in this developing area such as cyber security and grid instability, and the provisions of the bill would help manage them:

As the uptake of ESAs and related services increases, new risks such as cyber security and grid instability need to be mitigated. Furthermore, without intervention consumers may become locked-in to a particular service provider when they buy an appliance, or locked-out from certain services or tariffs. These new measures will enable the government to ensure the electrification of heat and transport in particular can be delivered securely and at the lowest cost, saving consumers money on their energy bills while protecting the energy system.⁹¹

On the same day that it introduced the Energy Bill in the House of Lords, the government launched a consultation on transitioning to a smart and flexible electricity system.⁹² The Energy Bill contains enabling powers in this area and the consultation is seeking views on how these should be implemented, subject to parliamentary approval, to enable regulation of energy smart appliances and organisations that control electrical load. The consultation is scheduled to close on 28 September 2022.

⁸⁸ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Heat networks regulation and zoning](#)’, July 2022.

⁸⁹ [Explanatory notes](#), para 61.

⁹⁰ [Explanatory notes](#), para 62.

⁹¹ [Explanatory notes](#), para 63.

⁹² Department for Business, Energy and Industrial Strategy, ‘[Delivering a smart and secure electricity system: The interoperability and cyber security of energy smart appliances and remote load control](#)’, 6 July 2022.

The government has published a factsheet on the bill and the regulation of load control and ESAs.⁹³

3.2.6 Part 9: Energy performance of premises

Part 9 of the bill would make provision in relation to the energy performance of buildings (EPB) regime. The government has argued that the scheme will “need to play an increasingly important role” if the UK is to meet its target of net zero greenhouse gas emissions by 2050.⁹⁴ Energy certificates provide people with information on the energy performance of the buildings stock and “support effective decision-making on improving the energy efficiency of premises”.

The bill would make provision to allow the existing EU-derived regime to be amended, revoked or replaced “to ensure it continues to meet UK-specific objectives”.⁹⁵ These powers “include the power to make regulations requiring the assessment, certification and publication of information relating to the energy efficiency and energy usage of premises”.

The government has published a factsheet on the bill and energy certificates.⁹⁶

3.3 Maintaining the safety, security and resilience of energy systems across the UK

The headings of parts 10, 11 and 12 of the bill are as follows:

- Core fuel sector resilience (part 10: clauses 202 to 224 and schedule 17).
- Oil and gas (part 11: clauses 225 to 229 and schedule 18).
- Civil nuclear sector (part 12: clauses 230 to 237 and schedule 19).

3.3.1 Part 10: Core fuel sector resilience

Part 10 of the bill includes provisions on the supply of ‘core fuels’. These are crude-oil based fuels and renewable transport fuels.⁹⁷ The bill would set a ‘general objective’ which states that the functions of the secretary of state

⁹³ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Regulation of load control and energy smart appliances](#)’, July 2022.

⁹⁴ [Explanatory notes](#), para 64.

⁹⁵ [Explanatory notes](#), para 65.

⁹⁶ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Power to review the energy performance of buildings regulations \(energy certificates\)](#)’, July 2022.

⁹⁷ [Explanatory notes](#), para 66.

under part 10 must be exercised with a view to:

- (a) ensuring that economic activity in the United Kingdom is not adversely affected by disruptions to core fuel sector activities, and
- (b) reducing the risk of emergencies affecting fuel supplies.⁹⁸

Core fuel activities are “the storage, handling, carriage, transport, conveyance, processing, or production of such fuels in the UK and contributes to the supply of core fuels to consumers or persons carrying on business in the UK”.⁹⁹

In June 2021, the government published a draft Downstream Oil Resilience Bill together with an impact assessment.¹⁰⁰ The draft bill included proposals intended to improve the resilience of the UK’s supply of oil-based fuel.¹⁰¹ Specifically, the bill included provisions concerning the supply, storage and distribution of oil for the transport sector. It included new powers to enable the government to direct companies to take measures to improve their own resilience. It would also enable the government to provide financial support to these companies for the purpose of improving the resilience of the UK’s oil distribution network.

The House of Commons Business, Energy and Industrial Strategy Committee published a pre-legislative scrutiny report on the draft bill in November 2021.¹⁰² The committee said it supported the government’s aims in introducing the measures. However, it argued the draft bill should be revised to include more information on how the bill’s “broad” powers would be used. The government published its response to the committee’s report in March 2022.¹⁰³ It said it would “take on board” the committee’s recommendations. Measures from the draft bill have been incorporated into the Energy Bill.

In a factsheet on the bill’s provisions on core fuel resilience, the government said it was bringing forward the measures from the draft bill in the Energy Bill:

In June 2021, we brought forward the draft Downstream Oil Resilience Bill. This set out our intention to introduce measures

⁹⁸ Clause 202.

⁹⁹ [Explanatory notes](#), para 66.

¹⁰⁰ UK Parliament, ‘[Draft bills 2021–22](#)’, accessed 12 July 2022.

¹⁰¹ House of Lords Library, ‘[Queen’s Speech 2022: Energy and climate change](#)’, 5 May 2022.

¹⁰² House of Commons Business, Energy and Industrial Strategy Committee, ‘[Pre-legislative scrutiny: Draft Downstream Oil Resilience Bill](#)’, 12 November 2021, HC 820 of session 2021–22. See also the committee’s [draft Downstream Oil Resilience Bill inquiry page](#).

¹⁰³ House of Commons Business, Energy and Industrial Strategy Committee, ‘[Pre-legislative scrutiny: Draft Downstream Oil Resilience Bill—government response](#)’, 7 March 2022, HC 1177 of session 2021–22.

allowing government additional oversight over the infrastructure sites that are essential in maintaining regional and national fuel supplies and granting it powers to minimise risks that failures of such sites could result in fuel shortages. Following parliamentary scrutiny by the [House of Commons Energy and Industrial Strategy Committee], and external feedback we are now bringing forward these measures in the Energy Security Bill to allow government to ensure the core fuel sector takes measures to maintain or improve fuel supply resilience, if needed.¹⁰⁴

The factsheet set out the differences between the draft bill and the measures in the Energy Bill as follows:

The draft bill included restriction on acquisitions powers. Feedback from industry suggests that the powers in the National Security and Investment Act 2021 already cover this so these powers have been taken out. We have also widened the scope of the information-gathering powers in the bill in order to enable government to get more information on forecourts when necessary.

We have also included renewable transport fuels in these measures to allow the provisions to operate in a future scenario where the main transport fuel is not crude oil based.¹⁰⁵

The factsheet's FAQ section includes the question: "Will the government be able to use these powers in disruptions such as Just Stop Oil, and what kind of directions might the secretary of state give?". It gives the following answer:

The powers in the bill will grant government the tools to proactively address failures that could cause disruptions in the sector. These measures are specifically aimed at improving core fuel supply resilience rather than responding directly to emergencies.

Direction notices will only be given by the secretary of state for the purposes of improving or maintaining overall sector resilience, or in addressing a current disruption to or significant risk to continuity of fuel supplies or to reduce the potential adverse impact of such a risk.¹⁰⁶

The impact assessments published for the Energy Bill includes an impact

¹⁰⁴ Department for Business, Energy and Industrial Strategy, '[Energy Security Bill factsheet: Core fuel resilience](#)', July 2022, page 4.

¹⁰⁵ Department for Business, Energy and Industrial Strategy, '[Energy Security Bill factsheet: Core fuel resilience](#)', July 2022, page 7.

¹⁰⁶ Department for Business, Energy and Industrial Strategy, '[Energy Security Bill factsheet: Core fuel resilience](#)', July 2022, page 7.

assessment with the title ‘Downstream Oil Supply Resilience Bill: Final impact assessment’, dated 6 July 2022, as its annex 3.3 entitled ‘Downstream oil resilience impact assessment’.¹⁰⁷

The Energy Bill’s explanatory notes state that the supply of fuels is currently largely unregulated, with no central system coordinator.¹⁰⁸ Following consultation, the government concluded that full regulation was “inappropriate” because there was no monopoly within the sector, and it was considered to operate well.¹⁰⁹ The government said however that legislation was needed to resolve concerns about cooperation in the sector:

However, while the government works closely with industry on a voluntary basis to try to address issues relating to core fuel sector resilience and risks to security of core fuel supplies as they arise, market participants have repeatedly told the government that competition concerns remain a barrier to full cooperation on a voluntary basis, thus requiring legislative intervention.¹¹⁰

The government contends that the measures in the bill would:

- improve the resilience of the sector
- reduce the risk of disruption to economic activities from the loss of fuel supplies, and
- reduce the risk of emergencies affecting fuel supplies

The explanatory notes provide the following summary of the provisions:

The intention is to give the government powers to take pre-emptive action to encourage the sector to build resilience rather than respond to an emergency. The principal measures provide for powers to require information and to direct certain entities to take action to maintain or improve, or reduce risks to, resilience or continuity of supply of core fuels. The information powers will allow the government to identify fuel supply risks. The powers of direction will allow the government to support the industry in ensuring resilience ahead of any potential crisis and within the structure of the core fuel supply market, thereby reducing the need for the use of emergency powers. This is accompanied by a funding power if required.¹¹¹

¹⁰⁷ Department for Business, Energy and Industrial Strategy, ‘[Energy bill: Impact assessments](#)’, 7 July 2022, annex 3.3.

¹⁰⁸ [Explanatory notes](#), para 68.

¹⁰⁹ [Explanatory notes](#), para 69.

¹¹⁰ [Explanatory notes](#), para 69.

¹¹¹ [Explanatory notes](#), para 70.

3.3.2 Part I I: Oil and gas

Part I I of the bill includes provisions on oil and gas, including on responding to marine oil pollution, oil and gas cost recovery for decommissioning, and on changes in the control of licences.

On marine oil pollution, the bill would create powers to enable changes to regulations through secondary legislation:

The bill provides suitable primary powers which would ensure that the offshore oil and gas environmental regulatory regime remains fit for purpose by allowing the future introduction of changes through secondary legislation. The delegated powers would ensure that the BEIS [Department for Business, Energy and Industrial Strategy] secretary of state is able to adequately: (i) respond to changes in policy delivery required to meet the challenges of achieving net zero, including extending regulatory regimes for habitats assessment and emergency oil pollution planning and response to new offshore activities, such as hydrogen production and storage; (ii) implement changes, resulting from any future court judgments; and (iii) implement lessons learned from any future offshore incident.¹¹²

The delegated powers memorandum for the bill notes that the existing regulation of emergency oil pollution planning and response is provided for under the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998. It states that this was “enabled in part” by section 2(2) of the European Communities Act 1972. The memorandum says that “there are no suitable alternative primary legislation powers available to make regulations for oil pollution matters connected to offshore oil and gas activities”.¹¹³

The powers in the Energy Bill are not limited to amending these regulations. This is because the government argues “this would be unduly restrictive and could lead to a piecemeal and ossified approach”.¹¹⁴ The powers could be used to amend existing regulations or to make new ones “whichever works better at the time”. The delegated powers memorandum states that expanding the scope of the existing offshore oil pollution control framework “is essential for new energy activities to be undertaken in a manner that mitigates the risk of oil pollution to the environment”.¹¹⁵ The government

¹¹² [Explanatory notes](#), para 71.

¹¹³ Department for Business, Energy and Industrial Strategy, ‘[Delegated powers memorandum: Energy Bill](#)’, 6 July 2022, para 942.

¹¹⁴ Department for Business, Energy and Industrial Strategy, ‘[Delegated powers memorandum: Energy Bill](#)’, 6 July 2022, para 943.

¹¹⁵ Department for Business, Energy and Industrial Strategy, ‘[Delegated powers memorandum: Energy Bill](#)’, 6 July 2022, para 945.

has published a factsheet on the bill and pollution planning and response.¹¹⁶

On offshore decommissioning costs, the government has argued that an increase in offshore decommissioning activities “and the associated complexity and duration of the regulatory functions associated with them” means that the existing cost recovery mechanism was no longer fit for purpose.¹¹⁷ The provisions of the bill would “make amendments to future proof the cost recovery mechanism in line with the polluter pays principle of environmental law”. The government has published a factsheet on the bill and offshore oil and gas decommissioning cost recovery.¹¹⁸

On changes in the control of licences, the government contends that the Oil and Gas Authority (OGA) “cannot currently prevent undesirable changes of ownership and control of petroleum licensees before they happen”.¹¹⁹ The provisions of the bill would “allow the OGA to identify and discourage potentially undesirable changes of ownership and control before they happen”.¹²⁰ The government argues this would make sure that the UK’s oil and gas infrastructure remained under the control of “companies with the best ability to operate it”.

3.3.3 Part 12: Civil nuclear sector

Part 12 of the bill would make provision related to the civil nuclear sector, including on the long-term storage of nuclear waste; decommissioning of nuclear sites; provisions to allow the UK to accede to the Convention of Supplementary Compensation for Nuclear Damage; and changes to the Civil Nuclear Constabulary.

The government states that it is committed to the use of geological disposal facilities (GDFs) for the storage of radioactive waste.¹²¹ A GDF is a site designed for the safe long-term storage of nuclear waste:

A GDF is a highly engineered facility capable of isolating radioactive waste within multiple protective barriers, deep underground, so that no harmful quantities of radioactivity ever reach the surface.¹²²

¹¹⁶ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Offshore oil and gas \(habitats assessment and emergency pollution planning and response\)](#)’, July 2022.

¹¹⁷ [Explanatory notes](#), para 72.

¹¹⁸ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Offshore oil and gas decommissioning cost recovery](#)’, July 2022.

¹¹⁹ [Explanatory notes](#), para 73.

¹²⁰ [Explanatory notes](#), para 74.

¹²¹ Department for Business, Energy and Industrial Strategy, ‘[Implementing geological disposal: Working with communities—An updated framework for the long-term management of higher activity radioactive waste](#)’, December 2018.

¹²² [Explanatory notes](#), para 75.

The bill would make it “expressly clear” that certain nuclear sites “located wholly or partly” in or under the territorial sea adjacent to the UK require a licence and are regulated by the Office for Nuclear Regulation (ONR).¹²³ This provision relates to the use of GDFs but the legislative changes would cover other nuclear sites located “wholly or partially in or under the territorial sea”.¹²⁴ The process for finding a site for a GDF is currently underway.¹²⁵

The government has published a factsheet on the bill and GDFs.¹²⁶

The bill would also make provision on the decommissioning of nuclear sites. It would amend the Nuclear Installations Act 1965 in respect of nuclear third-party liability and the processes for revoking and varying a nuclear site licence.¹²⁷ The bill would also allow for third-party liability to end depending on different factors:

Different parts of a nuclear site pose different levels of risk. In recognition of this, the clause sets out various new routes to end the requirement for nuclear third-party liability, based on the risk posed by the relevant part of the nuclear site.

The principal test, which will apply to nuclear reactors and most prescribed installations in the process of being decommissioned, is that the installation meets the criteria in the OECD Nuclear Energy Agency’s 2014 “Decision and recommendation of the steering committee concerning the application of the Paris Convention to Nuclear Installations in the Process of Being Decommissioned”, known as the “decommissioning exclusion”.¹²⁸

The government has published a factsheet on the bill and nuclear decommissioning.¹²⁹

The bill would also make provision to exclude certain low-risk sites from the nuclear third-party liability regime. This would be subject to these sites meeting conditions “equivalent” to those in the OECD Nuclear Energy Agency’s ‘Decision and recommendation concerning the application of the Paris Convention on third-party liability in the field of nuclear energy to

¹²³ [Explanatory notes](#), para 516.

¹²⁴ [Explanatory notes](#), para 77.

¹²⁵ [Explanatory notes](#), para 77.

¹²⁶ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Licensing of geological disposal facility beneath the seabed](#)’, July 2022.

¹²⁷ [Explanatory notes](#), para 517.

¹²⁸ [Explanatory notes](#), paras 519 and 520.

¹²⁹ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Proposals to amend the regulatory framework for the final stages of nuclear decommissioning](#)’, July 2022.

nuclear installations for the disposal of certain types of low-level radioactive waste'.¹³⁰ The explanatory notes to the bill state that “secondary legislation made using powers in this clause may add conditions and/or specify documents that must be submitted as part of any application”.¹³¹

The bill also contains amendments to the Nuclear Installations Act 1965 to implement the Convention on Supplementary Compensation for Nuclear Damage (CSC).¹³² The convention was adopted on 12 September 1997 and entered into force on 15 April 2015. It is part of the nuclear third-party liability regime (which includes the 1960 Paris Convention and 1963 Brussels Supplementary Convention). Nuclear third-party liability treaties are international agreements that provide that in the “unlikely event of a nuclear incident there is a minimum amount of compensation available to victims and that claims are channelled to the operator of the nuclear installation (and not the supply chain)”.¹³³ The UK has not yet acceded to the Convention on Supplementary Compensation for Nuclear Damage. The UK is already a party to the Paris Convention and the Brussels Supplementary Convention.¹³⁴ The International Atomic Energy Agency sets out the purpose of the Convention on Supplementary Compensation for Nuclear Damage as follows:

The Convention on Supplementary Compensation (CSC) aims at establishing a minimum national compensation amount and at further increasing the amount of compensation through public funds to be made available by the Contracting Parties should the national amount be insufficient to compensate the damage caused by a nuclear incident. The convention is open not only to states that are party to either the Vienna Convention on Civil Liability for Nuclear Damage or the Paris Convention on Third Party Liability in the Field of Nuclear Energy (including any amendments to either), but also to other states provided that their national legislation is consistent with uniform rules on civil liability laid down in the Annex to the Convention.¹³⁵

The government has said that accession to the convention would increase the number of countries that the UK has nuclear third-party liability treaties with, including “key nuclear partners” such as the US, Japan and Canada.¹³⁶

¹³⁰ [Explanatory notes](#), para 524; and OECD Nuclear Energy Agency, ‘[Decision and recommendation concerning the application of the Paris convention on third party liability in the field of nuclear energy to nuclear installations for the disposal of certain types of low-level radioactive waste](#)’, 2016.

¹³¹ [Explanatory notes](#), para 524.

¹³² Clause 233.

¹³³ [Explanatory notes](#), para 85.

¹³⁴ Department for Business, Energy and Industrial Strategy, ‘[Energy Security Bill factsheet: Enabling accession to the Convention on Supplementary Compensation for Nuclear Damage \(CSC\)](#)’, July 2022, p 4.

¹³⁵ International Atomic Energy Agency, ‘[Convention on Supplementary Compensation for Nuclear Damage](#)’, accessed 12 July 2022.

¹³⁶ [Explanatory notes](#), para 86.

The government states that it expects benefits of accession to also include increased confidence to private investors:

Accession would be likely to give private sector developers increased confidence in investing in new nuclear projects; offer participants in the UK's nuclear supply chain protection from claims; and reduce the risk of increased costs and timings associated with essential projects such as decommissioning. Additionally, these benefits are also equally applicable to potential UK exports, both presently and into the future.¹³⁷

The government has published a factsheet on the bill and enabling the UK's accession to the convention.¹³⁸

Part 12 of the bill would also make provision related to the Civil Nuclear Constabulary (CNC). The CNC is the armed police force responsible for protecting civil nuclear sites and materials in England and Scotland.¹³⁹ The CNC's mission is set out as follows:

In partnership with the civil nuclear industry, national security agencies and regulatory bodies the CNC will deter any attacker whose intent is the theft or sabotage of nuclear material whether static or in transit. If an attack occurs CNC will defend that material and deny access to it. If material is seized or high consequence facilities compromised the CNC will recover control of the facility and regain custody of the material.¹⁴⁰

The CNC is governed by the Civil Nuclear Police Authority (CNPA). The bill would extend the remit of the CNC to include other critical infrastructure sites:

The bill amends the functions and powers of the CNC and CNPA to enable the CNC to utilise their expertise in deterrence and armed response to support the security of other critical infrastructure sites or provide other policing services in the interests of national security. It also streamlines the CNC's arrangements to provide assistance to other police forces and enables the CNC to apprehend individuals across jurisdictions in Great Britain. In addition, it amends the timetable for the publication of the CNPA's three-year strategy plan.¹⁴¹

¹³⁷ [Explanatory notes](#), para 86.

¹³⁸ Department for Business, Energy and Industrial Strategy, '[Energy Security Bill factsheet: Enabling accession to the Convention on Supplementary Compensation for Nuclear Damage \(CSC\)](#)', July 2022.

¹³⁹ Civil Nuclear Constabulary, '[About us](#)', accessed 12 July 2022.

¹⁴⁰ Civil Nuclear Constabulary, '[About us](#)', accessed 12 July 2022.

¹⁴¹ [Explanatory notes](#), para 89.

The government has published a factsheet on the bill's provisions on the CNC.¹⁴²

3.4 The bill's general provisions and delegated powers

Part 13 of the bill includes general provisions including on powers to make consequential provision, regulation making powers and the bills territorial extent and commencement arrangements.

Delegated powers

The bill contains a large number of regulation-making powers. The government's delegated powers memorandum argues that the delegated powers in the bill need to be considered in the context of the legislative energy landscape:

The legislative landscape covering electricity, gas and nuclear power in the UK is highly complex and technical in nature, which inevitably means it is appropriate that a certain amount of technical detail should be left to secondary legislation. It is the department's view that the delegated powers in this bill should be seen in that context.¹⁴³

The memorandum groups the delegated powers in the bill under the following categories:

- Powers providing financial support to, setting targets for, or in other ways helping establish new industries and technologies.
- Powers supporting the establishment of a new ISOP.
- Powers that support the creation of new licensing activities.
- Powers which enable amendment or modification of existing legislation or documents.
- Powers that support the development of new regulatory regimes.

In a report published on 12 July 2022, the House of Lords Delegated Powers and Regulatory Reform Committee said there was “nothing in parts 1 and 2 of this bill which we would wish to draw to the attention of the House”.¹⁴⁴ At the time of writing, the committee had yet to report on other parts of the bill.

¹⁴² Department for Business, Energy and Industrial Strategy, '[Energy Security Bill factsheet: Ensuring the future of the Civil Nuclear Constabulary](#)', July 2022.

¹⁴³ Department for Business, Energy and Industrial Strategy, '[Delegated powers memorandum: Energy Bill](#)', 6 July 2022, para 7.

¹⁴⁴ House of Lords Delegated Powers and Regulatory Reform Committee, '[8th report of session 2022–23](#)', 12 July 2022, HL Paper 45 of session 2022–23, p 1.

Extent and devolution

Clause 241 of the bill sets out its extent. Annex A in the explanatory notes provide a summary of the territorial extent and application of the different provisions of the bill. Where the bill's provisions fall within devolved competence the government has said it will seek legislative consent in line with the Sewel convention.

4. Reaction to the proposals in the bill

4.1 Queen's Speech debate

Opening the fourth day of debate on the Queen's Speech in the House of Lords, government whip Baroness Penn explained that the Energy Bill was aimed at supporting families and businesses as the UK transitions to a "cleaner, more affordable and more secure energy system".¹⁴⁵ She continued:

It will ensure that consumers remain protected by the price cap and that heat networks are regulated, helping to lift households out of fuel poverty. This landmark bill will also fire the starting gun on new low-carbon technologies, such as hydrogen and carbon capture, utilisation and storage, by introducing state-of-the-art business models. It will also support the growth of new industries, unlocking tens of thousands of new skilled jobs across the UK. This reshaping of our energy industry will be overseen by a new future system operator, which will be charged with driving progress towards net zero, energy security and minimising the costs facing consumers.¹⁴⁶

Responding on behalf of the Labour Party, shadow spokesperson Baroness Jones of Whitchurch said the announced bill was "hopelessly inadequate", arguing that:

It does nothing to bring down costs, nothing to fast-track the energy-efficiency measures we all know that we need, and nothing to speed the race to renewables [...] The truth is that we are living with the failure of this government's policy over a decade to properly regulate the energy market, to develop renewables and nuclear power, and to deliver the energy-efficiency programmes that the Climate Change Committee has repeatedly said are vital to meet our net-zero targets.¹⁴⁷

¹⁴⁵ [HL Hansard, 16 May 2022, col 250.](#)

¹⁴⁶ [HL Hansard, 16 May 2022, col 250.](#)

¹⁴⁷ [HL Hansard, 16 May 2022, cols 252–3.](#)

Lord Fox, Liberal Democrat spokesperson for business, energy and industrial strategy in the House of Lords, said it was “clear that we have to escape absolutely our dependency on volatile oil and gas prices and deliver net zero”. He added that global economics and geopolitics were “reinforcing the overwhelming environmental arguments” on this point. Lord Fox also questioned how the measures in the bill would deal with near-term energy pressures alongside the longer-term measures, for example those relating to nuclear energy.¹⁴⁸

Speaking at the end of the debate, Lord McNicol of West Kilbride reiterated the Labour Party’s view that the bill was “hopelessly inadequate”. He alleged the bill as trailed contained “nothing to tackle the cost-of-living crisis, to bring forward energy efficiency measures or to ensure the green energy sprint that could bring down bills”.¹⁴⁹

Responding on behalf of the government to the points raised, Lord Callanan, parliamentary under secretary of state at the Department for Business, Energy and Industrial Strategy, asserted that the bill to be brought forward would “secure our energy needs and build a more affordable system that is fit for the future”. He also said the bill would “provide high-skilled jobs and help to rejuvenate our industrial heartlands up and down the country”.¹⁵⁰

4.2 Sector reaction to the bill

The government quoted expressions of support for its Energy Bill from several sector leaders in a press release published to accompany the Energy Bill’s introduction in the House of Lords.¹⁵¹ For example:

- John Pettigrew, chief executive of National Grid, was quoted as saying the bill “builds on the positive steps the government outlined in its British Energy Security Strategy”. He said that National Grid looked forward to working with the government to “realise its bold net zero goals including delivering 50 GW of offshore wind power by 2030 and establishing an independent system operator and planner”.
- Ross Easton, director of external affairs at the Energy Networks Association, said the bill represented a “welcome opportunity to enable a cleaner, more affordable and more secure energy system”.
- Dhara Vyas, director of advocacy at the energy industry trade association Energy UK, said the bill would “help to ensure the

¹⁴⁸ [HL Hansard, 16 May 2022, col 323.](#)

¹⁴⁹ [HL Hansard, 16 May 2022, col 326.](#)

¹⁵⁰ [HL Hansard, 16 May 2022, col 330.](#)

¹⁵¹ Department for Business, Energy and Industrial Strategy, ‘[Plans to bolster UK energy security set to become law](#)’, 6 July 2022.

UK's long-term energy supply and a cheaper and cleaner system overall".

- Ruth Herbert, chief executive of the Carbon Capture and Storage Association, said she was pleased to see a "credible investment framework for CCUS deployment" included in the bill.

In terms of other reaction, Rebecca Newsom, Greenpeace UK's head of politics, said that "despite a few positive sprinklings of support for solutions like heat pumps to clean up how we warm our homes", the bill would not deliver the "most pressing reforms" required.¹⁵² She continued:

The government should be delivering vital measures needed to promote a renewable-centred energy system, like introducing a net zero duty for our energy regulator. Yet, [Secretary of State for Business, Energy and Industrial Strategy] Kwasi Kwarteng appears to be more interested in making another backdoor attempt to clamp down on brave protestors pushing for a transition away from fossil fuels and failing to account for the real emissions impact of oil and gas extraction and use.

Ms Newsom argued that the bill should be amended to "avoid fundamentally undermining the UK's ability to meet our climate commitments".

Tom Thackray, decarbonisation director at the Confederation of British Industry (CBI), said the bill would "help address vulnerabilities laid bare by the global gas and oil crises".¹⁵³ He added that the measures in the bill would help to accelerate the UK's move toward net zero "while also helping to grow key green technologies like carbon, capture, usage/storage (CCUS) and hydrogen". However, Mr Thackray said that the government should "follow through on its commitment" to speed up planning decisions for electricity infrastructure. He said it should also create "an all-out national effort to help households better insulate their homes".

In the article carrying Mr Thackray's comments, the CBI set out five recommendations for helping business to "back green growth". These were listed as:

- legislating for the fourth ECO [energy company obligation] scheme before summer recess and commit £1bn annual funding for energy efficiency retrofits and create a new ECO+ scheme
- committing to the deployment of at least two more carbon capture clusters by 2030

¹⁵² Politics.co.uk, '[Greenpeace reaction to the Energy Security Bill](#)', 6 July 2022.

¹⁵³ CBI, '[Our reaction to UK government's Energy Security Bill](#)', 6 July 2022.

- setting out the contracts for difference model for hydrogen, sustainable aviation Fuels (SAF) and other renewables
- publishing an accelerated planning and consenting regime for offshore wind projects to cut approval times from four years to one
- broadening Ofgem’s duties to enable anticipatory investment in the grid to accelerate deployment of renewables

Nick Molho, executive director of the Aldersgate Group, said the body welcomed the bill’s provisions on the development of business models for low carbon technologies:

We welcome the development of clear business models for key low carbon technologies and fuels, such as hydrogen and carbon capture and storage, both of which have an essential role to play in supporting the decarbonisation of heavy industrial sectors such as steel and cement.¹⁵⁴

Mr Molho also said that whilst a focus on accelerating low carbon heat, such as heat pumps, was “essential”, he argued that “it must be accompanied by clear regulatory standards and incentives to improve energy efficiency in homes and buildings, both of which are still lacking”. He also welcomed the government’s target of delivering 50 gigawatts of offshore wind generation by 2030 but argued that “the UK’s offshore wind ambitions must go hand in hand with providing greater predictability and efficiency in the planning process to ensure the underlying grid capacity is in place to support the achievement of this target”.

Renewable UK’s deputy chief executive, Melanie Onn, argued that the bill would “accelerate the UK’s transition to energy independence by enabling us to deploy innovative home-grown renewable technologies at scale”.¹⁵⁵ She argued that the UK was in a position to develop new technologies such as energy storage and she was pleased to see a commitment to these:

A wide range of flexible storage technologies, including batteries, have a key role to play in strengthening the UK’s energy security, so it’s great to see a strong commitment to ramp these up, as this will boost confidence among investors. We have a golden opportunity to export worldwide, as we’re a global leader in these cutting-edge

¹⁵⁴ Aldersgate Group, [‘Energy Security Bill is a good step forward but some important gaps remain’](#), 6 July 2022. The Aldersgate Group describes itself as “a politically impartial, multi-stakeholder alliance championing a prosperous, net zero emissions, environmentally sustainable economy” ([‘Aims’](#), accessed 13 July 2022). Former prime minister Theresa May (Conservative MP for Maidenhead) is one of the group’s two chairs.

¹⁵⁵ RenewableUK, [‘Energy Security Bill will speed up transition to UK’s energy independence’](#), 6 July 2022.

technologies.¹⁵⁶

However, Ms Onn said that a new approach to how the market was regulated was needed and this “should start with a net zero duty on Ofgem so that all decisions on the future of the market are aligned with our decarbonisation targets”.

Citizens Advice’s chief executive, Dame Clare Moriarty, responded to the bill’s provisions saying, “with millions of people already struggling to make ends meet, it’s a relief to see the government extend the price cap beyond 2023”.¹⁵⁷ However, she argued that a lot of money spent on energy was wasted “because so many of our homes are draughty and poorly insulated”. Dame Clare said that the government “must bring in energy efficiency measures as a matter of urgency, to help families stay warm this winter”. On the bill’s provisions on heat networks, Dame Clare said it was welcome to see that the government would be regulating them because for reducing bills in the longer term it was important to be less dependent on gas.

5. Read more

5.1 Library briefings

- House of Commons Library, ‘[British energy security strategy](#)’, 4 July 2022
- House of Commons Library, ‘[The future hydrogen economy](#)’, 10 June 2022
- House of Lords Library, ‘[Queen’s Speech 2022: Energy and climate change](#)’, 5 May 2022
- House of Lords Library, ‘[Energy](#)’, accessed 13 July 2022; House of Commons Library, ‘[Energy](#)’, accessed 13 July 2022; and Parliamentary Office of Science and Technology, ‘[Energy](#)’, accessed 13 July 2022

5.2 Government material

Earlier energy-related government strategies and policy documents, consultations, calls for evidence and research and analysis include:

- ‘[Heat and buildings strategy](#)’, 19 October 2021
- ‘[UK hydrogen strategy](#)’, 17 August 2021

¹⁵⁶ RenewableUK, ‘[Energy Security Bill will speed up transition to UK’s energy independence](#)’, 6 July 2022.

¹⁵⁷ Citizens Advice, ‘[Energy Security Bill is welcome, but immediate action is needed before winter draws in, says Citizens Advice](#)’, 6 July 2022.

- [‘Digitalising our energy system for net zero: Strategy and action plan’](#), 20 July 2021
- [‘Transitioning to a net zero energy system: Smart systems and flexibility plan 2021’](#), 20 July 2021; [‘Upgrading our energy system: Smart systems and flexibility plan’](#), updated 16 October 2018; and [‘A smart, flexible energy system: Call for evidence’](#), 10 November 2014 (updated 24 July 2017)
- [‘Implementing geological disposal: Working with communities—long-term management of higher activity radioactive waste’](#), 19 December 2018
- [‘Design of a business model for low carbon hydrogen’](#), updated 8 April 2022
- [‘Proposals for a future system operator role’](#), updated 6 April 2022
- [‘Energy code reform: Governance framework’](#), 20 July 2021 (updated 6 April 2022); and [‘Reforming the energy industry codes’](#), 22 July 2019 (updated 14 December 2020)
- [‘Carbon capture, usage and storage \(CCUS\): Duties and functions of an economic regulator for CO2 transport and storage’](#), 2 August 2021 (updated 17 January 2022)
- [‘Facilitating the deployment of large-scale and long-duration electricity storage: Call for evidence’](#), 20 July 2021
- [‘Role of vehicle-to-X energy technologies in a net zero energy system: Call for evidence’](#), 20 July 2021
- [‘Carbon capture, usage and storage \(CCUS\): Business models’](#), 21 December 2020 (updated 24 June 2022)

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