



***Energy Bill* [HL]: Committee Stage Report**

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This is a report on the House of Commons Committee Stage of the *Energy Bill*. It complements Library Research Paper 11/36 (*Energy Bill*) prepared for the Commons Second Reading.

The Bill covers a wide range of topics including issues relating to energy efficiency, including the Green Deal, and energy generation. The most substantial amendments to the Bill relate to the introduction of regulations on the energy efficiency of the private rented sector. A clause on nuclear decommissioning was withdrawn and is to be reintroduced at a later stage by the Government. There were also new clauses relating to carbon capture and storage, and renewables in national parks.

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Summary

Following Second Reading of the *Energy Bill* in the Commons the Government published further details on the Green Deal. During the Committee Stage amendments were made to clarify some of the details of how the scheme will function. In addition, Government amendments were introduced setting out the contribution the Green Deal is expected to make to carbon budgets and setting out an energy efficiency aim. An Opposition amendment to clause 36, now clause 39, requiring the Secretary of State to report to Parliament with proposals for a Green Deal apprenticeships programme was passed unopposed.

The Government introduced several new clauses and withdrew existing clauses during Committee Stage to implement its announcement that it would make regulations to ban the rental of properties in the private rented sector with the lowest F and G energy efficiency ratings from 2018.

The Bill would replace obligations on energy suppliers to reduce carbon dioxide emissions from homes with a new Energy Company Obligation that focuses on delivery of home energy efficiency improvements. Concerns were raised during Committee that it could be monopolised by the larger energy companies and the size of the fund would be inadequate.

Amendments to clause 71 to introduce an independent Code of Practice for the installation of smart meters were withdrawn. A voluntary code is expected instead.

Clause 102 regarding agreement about modifying a nuclear decommissioning programme was withdrawn from the Bill by the Minister. He agreed with Members of the Committee that it did not deal adequately with “unforeseen circumstances” that might arise during a decades-long decommissioning agreement. He would address the issues, and table a new clause at Report Stage. A new Government clause, 12, to bring the regulation of nuclear construction sites within the remit of the *Anti-terrorism, Crime and Security Act 2001* was added to the Bill.

Clause 105 to repeal the *Home Energy Conservation Act 1995* (HECA) in England, Wales and Scotland was amended by the Government to repeal it in Scotland and Wales but leave it in force in England. The Scottish and Welsh administrations already have their own arrangements in place under their own competence which they judge make HECA superfluous. The Government believes that provision should remain in England explicitly to encourage a local authority to take action on energy efficiency. Hence it intends to retain the HECA requirement for local authorities in England to report such measures.

The Government introduced new clauses to facilitate the use of existing infrastructure for carbon capture and storage projects. There was also a new clause covering planning for renewables in national parks.

1 Introduction

The Energy Bill was introduced to the House of Commons from the House of Lords on 16 March 2011 and had its Second Reading on 10 May 2011. There were ten sittings of the Public Bill Committee between 7 and 21 June 2011.

Background on the Bill and proceedings in the House of Lords can be found in Library Research Paper 11/36 on the [Energy Bill \[HL\]](#) published in May 2011 for the Second Reading Debate in the House of Commons.

2 House of Commons Second Reading

The Secretary of State for Energy and Climate Change, **Chris Huhne**, opened the debate.¹ He summarised that the Bill contained provisions to boost energy security, to encourage low-carbon technologies and to improve energy efficiency. He called the Green Deal the “most comprehensive energy saving plan in the world”² and said that it would create a new market in energy saving.³

Mr Huhne announced a change to the current provisions in the Bill aimed at improving energy efficiency levels in homes in the private rented sector (PRS). As introduced, the Bill provided the Government with a power, but not a duty to regulate in this area, nor did it set a specific standard for rating the improvement of the PRS. In response to concerns about this sector, **Mr Huhne** confirmed that the Government would use its power in the Bill to make regulations. Specific standards would be introduced to ban the rental of properties in the PRS with the lowest F and G energy efficiency ratings from 2018. There would also be regulations introduced from 2016, which would mean that any tenant asking for their landlord’s consent to make reasonable energy efficiency improvements could not be refused.⁴

The Shadow Secretary of State for Energy and Climate Change, **Meg Hillier**, spoke about the Bill in the context of the UK needing to lead the world in reducing carbon emissions and called it a “flaccid lettuce leaf of a Bill, laden with missed opportunities and ducked decisions.”⁵ She explained that her party wanted the Bill to succeed in its aims, but said that it contained “glaring gaps”.⁶ **Meg Hillier’s** main focus was on the Green Deal; on whether private companies would really want to get involved with it; about the lack of targets set in the Bill about the number of homes that it would help; and about the lack of information about what the interest rates would be for Green Deal finance schemes. She also asked for further information about who would accredit the Green Deal assessors and whether there would be enough people available to train to become assessors. A particular concern was about consumer protection in the event that a household did not make the energy savings expected and about who would be responsible for paying the shortfall.⁷

The Chairman of the Energy and Climate Change Select Committee, **Tim Yeo**, said that he warmly welcomed the Bill and called it a “big – and overdue – step in the right direction”.⁸ He said that while the Green Deal was an “excellent concept”, he would like more information

¹ HC Deb 10 May 2011 c1053

² HC Deb 10 May 2011 c1055

³ HC Deb 10 May 2011 c1062

⁴ HC Deb 10 May 2011 c1063

⁵ HC Deb 10 May 2011 c1066

⁶ HC Deb 10 May 2011 c1067

⁷ HC Deb 10 May 2011 c1070

⁸ HC Deb 10 May 2011 c1073

about some aspects of its implementation. In particular, he encouraged the Government to explore how council tax discounts could be used to encourage faster uptake of energy efficiency measures.⁹ **Mr Yeo** also drew attention to the value of smart meters. He hoped that the Government would take a close interest in the roll-out of smart meters to ensure that they got off to a good start and to avoid consumer suspicion that suppliers would benefit more than consumers.¹⁰

Joan Walley, Chair of the Environmental Audit Committee, said it was crucial that the Bill succeeded, but was apprehensive about its lack of detail.¹¹ She asked for greater clarity about the scale of the ambition, the take-up and the long term nature of the Green Deal, so that businesses could feel confident about investing in it. She warned that if interest rates on Green Deal finance packages were set too high difficulties would arise with take up and affordability of certain measures. She also flagged up a specific concern about clause 18, which relates to when an energy supplier may disconnect a Green Deal customer for non-payment. She asked for clarification about how pre-payment customers would be treated here and how their meter credit would be allocated against energy costs, Green Deal payments and arrears.¹²

Caroline Lucas, for the Green Party, welcomed the Bill, but again had some reservations. One of these was about the ECO (energy company obligation) and its two functions; to help reduce fuel poverty and to help those in hard to treat homes. Her concern was that some people in fuel poverty may miss out on help in order to focus more on those in hard to treat homes, who may not necessarily need the help as much. Her other concern was that as the ECO would be funded by a levy on bills, it would raise energy prices and risks pushing more people into fuel poverty than it would take out.¹³

Further on the matter of the ECO, **Luciana Berger**, Shadow Minister for Energy and Climate Change, said it was not evident that it would be the game changer the Government had billed it as, because no money had been ring-fenced for it and it was not clear whether or not the ECO would fall under the Treasury's cap on levies. She also welcomed the Secretary of State's announcement setting out a clearer timetable for when energy efficiency in the PRS (private rented sector) would be improved. She expressed concerns about the lack of clarity on the level of Green Deal finance interest rates.¹⁴

Along with **Joan Walley**, **Martin Horwood** raised concern about the apparent disparity between the Government's commitment to no public subsidy for nuclear power, and clause 102, which was feared could represent a hidden subsidy. Clause 102 was designed to clarify when the Secretary of State could exercise powers to modify a funded decommissioning programme. He set out that the clause dealt with "the vexed question of the decommissioning and clean-up of nuclear power stations" which he "thought had been settled in the *Energy Act 2008*". He thought that clause 102 would unnecessarily transfer "the risk straightforwardly from the operators to the taxpayer".¹⁵ **Chris Huhne** responded that **Mr Horwood** "should recognise that the clause intends not only to provide more certainty for investors, but to recognise that there might need to be changes. Those changes would not

⁹ HC Deb 10 May 2011 c1073

¹⁰ HC Deb 10 May 2011 cc1073-4

¹¹ HC Deb 10 May 2011 c1076

¹² HC Deb 10 May 2011 c1077

¹³ HC Deb 10 May 2011 c1109

¹⁴ HC Deb 10 May 2011 cc1128-9

¹⁵ HC Deb 20 May 2011 c1080

necessarily be downwards, either; they might well be upwards, in circumstances that would have been set out clearly in an agreement". He stated that the clause put "flesh on our commitment to no public subsidy for nuclear".¹⁶

Members welcomed the measures in the Bill facilitating offshore transmission regimes.¹⁷ However, some Members highlighted the need for developers to link up offshore so that just one cable could be used to bring the electricity to land. This would prevent problems with on-land infrastructure.¹⁸

Mike Weir had concerns that the Bill would not do enough to tackle the problem with access to upstream oil and gas infrastructure for smaller operators. He suggested that the Bill would need to do more than simply build on the existing arrangements in this area.¹⁹

Several Members raised the problem about the Crown Estate currently giving leasing priority, if oil and gas supplies are found, to oil and gas developers over incumbent wind developers, without compensation.²⁰ This is a considerable disincentive to offshore wind developers when new offshore wind generation is required. An amendment to rectify this was proposed, but not passed, during the Report Stage in the Lords. Calls were made for the Government to rectify this in Committee. In the summing-up, **Gregory Barker**, Minister for Energy and Climate Change, reiterated the Government's commitment to a "resurgence in renewables".²¹

Winding up for the Government **Gregory Barker** said that two further amendments would be made to the Bill to set out more explicitly the scope of the Government's ambition. The first was that the Government would publish a formal aim on the face of the Bill to take reasonable steps to improve the energy efficiency of the English residential sector by 2020, so that emissions from that sector would follow a trajectory consistent with the UK carbon budgets. The second was a proposed amendment that would commit to an annual report to Parliament on the specific contribution of the Green Deal and the ECO, within the context of contributing to the carbon budgets set out by the *Climate Change Act 2008*. **Gregory Barker** also committed to bringing forward further details on the ECO before the Bill went into Committee.²²

The Bill's repeal of the *Home Energy Conservation Act 1995* (HECA) was regretted by several Members.²³ In response, **Gregory Barker** confirmed that clause 105 repealing the Act would not go ahead. He explained, the Government had "listened to various voices from a number of stakeholders on the subject of the HECA and ... decided to retain parts ... to breathe new life into it and to ensure that it becomes part of our way of ensuring uniform delivery of the Green Deal across Britain. We will table those amendments in Committee". He said it could "become an effective tool that could allow us to avoid imposing new regulation on local government".²⁴

¹⁶ HC Deb 20 May 2011 c1081

¹⁷ HC Deb 20 May 2011 c1079

¹⁸ HC Deb 20 May 2011 c1092

¹⁹ HC Deb 20 May 2011 cc1091-2

²⁰ HC Deb 20 May 2011 c1092, c1111, and cc1123-4

²¹ HC Deb 20 May 2011 c1132

²² HC Deb 10 May 2011 c1131

²³ HC Deb 20 May 2011 c1098

²⁴ HC Deb 20 May 2011 c1102 and c1132

The Bill was given a Second Reading, without division.²⁵

3 Further Details on Green Deal Published

3.1 Measures Covered

On 2 June 2011, just before the Committee Stage began, the Government published a document, *What measures does the Green Deal cover?* The document explains that there will be no standard Green Deal measure or list of measures for all properties. What will be appropriate for a property will depend on a number of factors, including the work already done, the characteristics of the building and in some cases, geographical location.²⁶ An indicative, non-exhaustive, list of measures that the Government is considering was included:

Box 4: Measures ¹	
Heating, ventilation and air conditioning	<ul style="list-style-type: none"> Condensing boilers Heating controls Under-floor heating Heat recovery systems Mechanical ventilation (non-domestic) Flue gas recovery devices
Building fabric	<ul style="list-style-type: none"> Cavity wall insulation Loft insulation Flat roof insulation Internal wall insulation External wall insulation Draught proofing Floor insulation Heating system Insulation (cylinder, pipes) Energy efficient glazing and doors
Lighting	<ul style="list-style-type: none"> Lighting fittings Lighting controls
Water heating	<ul style="list-style-type: none"> Innovative hot water systems Water efficient taps and showers
Microgeneration	<ul style="list-style-type: none"> Ground and air source heat pumps Solar thermal Solar PV Biomass boilers Micro-CHP

3.2 Green Deal Standards

The Green Deal would be underpinned by a certification scheme which would set technical standards for installation and competence levels for installers, as well as customer care and warranty requirements. The Government has made clear that to ensure that work is carried out to a high standard all installers operating under the Green Deal would carry a quality mark to demonstrate that they meet the prescribed certification and skills standard. The standard would be developed over time with the relevant sectors.²⁷ The Government has

²⁵ HC Deb 20 May 2011 c1133

²⁶ Department of Energy and Climate Change, *What measures does the Green Deal cover?* 2 June 2011, p4

²⁷ HC Deb 30 November 2010 c671W

said that details of this framework are being discussed with a Green Deal installation stakeholder advisory forum.²⁸

On 2 June 2011 the Government published further information about the proposed standards:

DECC has contracted the British Standards Institute to develop a Publicly Available Specification (PAS) for the retrofitting of energy efficiency measures in domestic and non-domestic buildings. This will be largely based around existing standards where they exist, and will drive standards where they don't. It is therefore essential that there are robust standards associated with all Green Deal measures.

Measures paid for under a Green Deal Plan will have to be installed by someone who is authorised under the Green Deal authorisation scheme, and authorised installers will need to comply with a Code of Practice when they carry out work under the Green Deal. It is envisaged that the scheme will require installers to demonstrate compliance with the PAS. UKAS [the United Kingdom Accreditation Service] has been appointed to accredit Certification bodies to ensure they meet the requirements of the PAS. They, in turn, will be required to ensure that their members meet this standard and will check installers against the PAS, and notify the Green Deal Oversight Body that they are compliant. The PAS will therefore provide the criteria against which certification bodies should check installation companies to demonstrate that they are able to consistently carry out the installation of relevant measures according to best practice, and have the systems in place to provide consumers with a high level of customer service. This certification will be required in order for companies to be registered as Green Deal installers and to use the Green Deal quality mark. The final PAS will provide a consistent method of assessing Green Deal installers across the range of measures that qualify under the Green Deal.²⁹

3.3 Green Deal Consumer Protection

On 2 June 2011 the Government also published a document, *Consumer protection in the Green Deal*. Green Deal providers that want to be able to collect payments from energy bills will be required to meet the standards set out in a new Green Deal Code. Green Deal providers will be required to:

- provide a statement of expected energy bill savings, based on the assessment, showing how these should be sufficient for the customer to meet the Plan instalments;
- only offer a Green Deal Plan to pay for energy saving measures recommended by an accredited Assessor, using an objective method;
- only use Green Deal certified Assessors and Installers, certified by Green Deal accredited trade bodies.³⁰

The Government set out how consumers would have redress about problems with Green Deal providers:

Licensed providers will meet the requirements of the Consumer Credit Act (CCA) and will need to hold a consumer credit licence. This provides protection against mis-selling and allows for 'cooling off' periods, for example. In addition, the Green Deal Code will

²⁸ HC Deb 7 March 2011 cc819-20

²⁹ Department of Energy and Climate Change, *What measures does the Green Deal cover?* 2 June 2011, p9

³⁰ Department of Energy and Climate Change, *Consumer protection in the Green Deal*, 2 June 2011, p4

set out the permissible financial terms allowable under the scheme (e.g. fixed vs variable, index linked or nominal etc.). The Green Deal will be different from traditional financial products - precisely because the Green Deal is an innovative finance mechanism - and we will work with BIS and the Financial Ombudsman Service to ensure they can provide an effective route for redress for the financial aspects of the Green Deal.³¹

It was also announced that the Government would establish a Green Deal advice line for consumers:

The government will set up a Green Deal Advice line. As well as providing a source of impartial information and referral to assessors, installers and providers, it will also provide advice and referral to assist customers when something goes wrong that can't be fixed by the Green Deal provider. It will provide information about the obligations and protections that are part of the Green Deal - as set out in Green Deal Code - and be capable of capturing basic details about the problem to refer on to the relevant trade certification scheme, or Ombudsman Service (assuming the customer has not been satisfied by their Green Deal provider).

We will work with these Ombudsmen Services, with the energy suppliers and with the accreditation schemes and certifying bodies to ensure sufficient information about the Green Deal Plan is retained and capable of retrieval by those who may need access to it, to enable the effective investigation and resolution of complaints and disputes.³²

4 Committee Stage

4.1 Green Deal: clauses 1 to 37

The debate on the Bill began on proposed amendment 86 tabled by **Caroline Lucas**, to include in the Green Deal assessment measures that would fall outside the Green Deal but would lead to greater energy efficiency. The Minister, **Gregory Barker**, made clear that it was difficult to envisage any measure that met the golden rule – by paying for itself in energy bill savings over a set period of time - would do so by any other means than reducing energy and did not support the amendment.³³

Amendment 101, tabled by **Caroline Lucas**, was a probing amendment aiming to confirm “that any household recognised as living in fuel poverty will not have to repay a green deal loan and therefore have the cost of green deal eligible measures fully met by the Energy Company Obligation (ECO)”. During the debate concerns were expressed that ECO would be aimed at the fuel poor *and* hard to treat properties, reducing the funds available for the first group. The Minister was unable to provide details of how the split would work as the size of the ECO has not yet been agreed; further details would be available in the autumn consultation.³⁴

Amendments 1, 2 and 4 were agreed setting out how energy suppliers can recover unpaid debt and which bodies can receive Green Deal payments. During the debate **Gregory Barker** made clear that customers with prepayment meters would be included in the Green Deal although the technical details had not yet been worked out:

³¹ Department of Energy and Climate Change, [Consumer protection in the Green Deal](#), 2 June 2011, p5

³² Department of Energy and Climate Change, [Consumer protection in the Green Deal](#), 2 June 2011, p6

³³ PBC Deb 7 June 2011 c6

³⁴ PBC Deb 7 June 2011 c21

It is our intention that the green deal charge will be able to be collected through all payment routes currently used by electricity suppliers, including prepayment meters.³⁵

He also made clear that the Government expected the interest levels paid through the Green Deal to be fixed rather than variable, although a final decision had not been made.³⁶

Opposition new clauses 8, 9 and 10 were debated. New clause 8 aimed to set out the purpose of the Green Deal as meeting climate and warm homes targets; new clause 9 aimed to impose a duty on the Secretary of State to improve energy efficiency; new clause 10 would have required an annual report on progress. The Government proposed its own amendments which now stand part of the Bill as clauses 106 *Contribution to carbon budgeting under the Climate Change Act 2008* and 108 *Energy Efficiency Aim*. Concerns were expressed during the debate that the Government clauses did not include any identifiable target.³⁷

Luciana Berger tabled amendment 84 aimed at ensuring a widespread access for different organisations to become Green Deal providers. She expressed concerns that the Green Deal could become a closed market, uncompetitive and dominated by big energy companies. In response Gregory Barker stated:

We recognise that co-ops and other social enterprises will play an important role in delivering the green deal and therefore we need to ensure that we take appropriate steps to support their involvement, exactly as she says. We are also considering ways in which we can encourage other important social benefits to come out of the green deal—for example, encouraging local firms to take on more apprentices to help to bridge the skills gap that is evident in the sector.³⁸

During the debate on clause 3 covering framework regulations **Luciana Berger** proposed amendment 39 aimed at ensuring a regulatory body is put in place, rather than this being an option. **Gregory Barker** confirmed that the Government intended to put in place a strong accreditation scheme and a code of practice.³⁹ The Minister introduced an amendment that will give the Government powers to withdraw authorisation from a Green Deal accreditation body and all its members.⁴⁰ Later on in the debate the Minister also introduced an amendment to clause 35 to allow a right of appeal.⁴¹ The Minister also introduced new clause 5, now clause 37 of the Bill, allowing for preparatory expenditure in setting up the framework regulations.

During the debate on clause 4 **Huw Irranca-Davies**, Shadow Minister for Energy and Climate Change, expressed concern about the possibility of bias amongst Green Deal providers when recommending measures. **Graham Jones** also expressed concerns and echoed the worries of *Which?* about the tying in of Green Deal assessors and providers.⁴² During the debate **Gregory Barker** announced the provision of a single guarantee for customers:

We plan to require green deal providers to provide a single guarantee to their customers. Not only will the original customer be protected, but future occupants of a green deal property during the repayment period will enjoy the same coverage.

³⁵ PBC Deb 7 June 2011 c33

³⁶ PBC Deb 7 June 2011 c38

³⁷ PBC Deb 7 June 2011 c43

³⁸ PBC Deb 7 June 2011 c73

³⁹ PBC Deb 7 June 2011 c85

⁴⁰ PBC Deb 7 June 2011 c87

⁴¹ PBC Deb 9 June 2011 c167

⁴² PBC Deb 9 June 2011 c101

Providers will guarantee all the installed measures for their operational lifetime under green deal plans.

Furthermore, we will consider requiring green deal providers to contribute to an insurance scheme that will protect customers should the providers go out of business. We expect that to operate in a similar way to the scheme operated by the Association of British Travel Agents for the travel sector.⁴³

The Minister said that the Green Deal assessment will be entirely independent and interchangeable, and this requirement will be set out in secondary legislation.⁴⁴ There will be a “clear and standardised professional assessment process”.⁴⁵ Customers would also be able to have a second assessment done - although this would incur extra costs - and be free to choose a Green Deal provider from the range available. The Minister also made clear that consumer protection would include declarations on any commission received and a ban on cold calling.⁴⁶ There will also be incentives to encourage uptake which are in the process of being developed by the Treasury.⁴⁷

During the debate on clause 17 of the Bill **Gregory Barker** said that the Government are minded to give the role of collecting Green Deal payments to electricity companies. The reason the Minister gave for this is that it is less likely that arrears will accrue over the summer months.⁴⁸

Clause 17 will also allow an opt-out or opt-in option for smaller suppliers.⁴⁹ An official at DECC confirmed that a possible opt-out for those suppliers who do not want the extra administrative burden of processing Green Deal payments will be consulted upon in the autumn, and confirmed this would result in Green Deal customers not being able to switch to an ‘opted-out’ smaller supplier. Their view is that not many suppliers would take up the option.

The Government amended clause 19 to allow the disclosure of energy bill payment history to Green Deal providers, with the consent of the householder:

Green deal providers will have access to credit information about potential customers; for example, through credit reference agencies. However, that will be less accurate as a predictor of ability to repay the green deal than an individual’s energy payment history. It may lead the green deal provider to exercise unnecessary caution, as energy bill default occurs at lower rates than other credit arrangements, such as credit card repayments.⁵⁰

Caroline Lucas raised concerns that the information could be used to charge higher interest to customers who could be viewed as a greater risk. In response **Gregory Barker** stated that this was an issue that would be addressed in secondary legislation:

First, we will be looking, as part of the further detail that we will bring forward in secondary regulation, whether we need to require a flat interest rate, so that there is an inability for providers to differentiate between customers. Secondly (...) we will look at penalties. That will be within the overall code of practice that affects all green deal

⁴³ PBC Deb 9 June 2011 c99

⁴⁴ PBC Deb 9 June 2011 c101

⁴⁵ PBC Deb 9 June 2011 c102

⁴⁶ PBC Deb 9 June 2011 c129

⁴⁷ PBC Deb 9 June 2011 c134

⁴⁸ PBC Deb 9 June 2011 c153

⁴⁹ PBC Deb 9 June 2011 c152

⁵⁰ PBC Deb 9 June 2011 c159

providers. They will all be bound by it in the first instance. In the second instance, if they are unreasonably withholding credit, they would lose their green deal status.⁵¹

And

The use of credit profiling will help to prevent irresponsible lending. It will be a further aid to the golden rule to ensure that there is no irresponsible lending to households that could not support it. It may also be another way to access the energy company obligation.⁵²

Government new clause 3, now clause 29, amends the *Consumer Credit Act 1974* to allow compensation to creditors for the early repayment of Green Deal finance. New clause 4, now clause 32, was added to the Bill by the Government but not debated. It will allow the Secretary of State to transfer any function under the Green Deal scheme from himself or a public body to any body or person. Subsection 4(b) would allow for payments to be made to that body or person.

An Opposition amendment to clause 36, now clause 39, requiring the Secretary of State to report to Parliament with proposals for a Green Deal apprenticeships programme was agreed to unopposed.⁵³

4.2 Private Rented Sector: clauses 38 to 63

Clauses 38 to 50 relate to England and Wales. The Government introduced several new clauses and withdrew existing clauses to implement **Chris Huhne's** announcement during the Second Reading Debate of changes in the Bill aimed to improve energy efficiency levels in homes in the private rented sector (PRS).

The Bill contained

- Clause 39 - Review of Energy Efficiency in the private rented sector: England and Wales
- Clause 40 - Power to make domestic energy efficiency regulations: England and Wales
- Clause 41 - Further provisions about domestic energy efficiency regulations: England and Wales

The Government proposed replacing those clauses by

- New Clause 24 – Domestic minimum standard regulations
- New Clause 25 – Further provisions about domestic minimum standard regulations: England and Wales
- New Clause 26 - Sanctions for the purposes of domestic minimum standard regulations: England and Wales
- New Clause 32 - Domestic Energy efficiency regulations: England and Wales
- New Clause 33 - Further provisions about domestic energy efficiency regulations
- New Clause 41 - Minimum energy efficiency standards

⁵¹ PBC Deb 9 June 2011 c160

⁵² PBC Deb 9 June 2011 c161

⁵³ PBC Deb 9 June 2011 c170.

Gregory Barker explained that the Government had listened to concerns that requiring a review before deciding whether to regulate the sector would create too much uncertainty.

Under amendments 126 and 145, and with clauses 39 to 41 no longer standing part of the Bill, our regulations will no longer be conditional on a review, and the Secretary of State will have a duty [to] make the regulations. As a result, landlords will know what is required of them and when, and tenants will be provided with assurance that cold, draughty rental properties will be a thing of the past. New clauses 32 and 33 introduce provisions for a minimum standard to come into force no later than 1 April 2018. That standard, which will be set at band E, will ensure that approximately 682,000 homes will have to be improved.

The prospect of the minimum standard will give landlords a strong incentive to act sooner. They will be able to make the required improvements over the coming years and plan around their tenancy changes. In 2018, the regulations will mop up those few remaining landlords who have yet to change; inaction will not be a viable option. It is important for Committee members to understand that 2018 is not the date on which we expect the process to start, but the date on which the finish line should be crossed.⁵⁴

Caroline Lucas tabled a series of amendments that would strengthen the powers of local authorities to deal with landlords who refused to co-operate. She also wanted to retain clauses 40 and 41 in the Bill.⁵⁵ **Gregory Barker** had been advised that duplication would result if clauses 40 and 41 were retained.⁵⁶ **Luciana Berger** described the harm to health resulting from cold homes. The Government's proposals would have the unintended consequence that tenants fearing eviction would not make requests of their landlords.⁵⁷ **Gregory Barker** said that it was a huge step forward that they plan to complete the upgrading of properties by 2018.⁵⁸

Luciana Berger proposed amendment 121 to allow the Secretary of State to establish a register of landlords for purposes connected with the Bill.⁵⁹ **Gregory Barker** said that the private rented sector was already governed by a well-established legal framework, and he did not see the need to impose further regulatory and financial burdens.⁶⁰ The amendment was withdrawn. Clauses 40 and 41 were disagreed to.⁶¹

A Government amendment (143) modified clause 43 on the power to make tenants' energy efficiency improvements regulations. The clause had said that the Secretary of State may make regulations; the amendment said that he must make regulations. That amendment was approved without a vote. Amendment 144 to the same clause, however, was only approved after a vote. It put back from 2015 to 2016 the date by which tenants' energy efficiency improvements regulations must come into force. **Gregory Barker** said that the time was needed for landlords to get up to speed with the regulations.⁶² Clause 43 was ordered to stand part of the Bill.⁶³

Clauses 44 and 45 were approved without amendment. **Tessa Munt** proposed new clause 27 *Protection from eviction under section 21 of the Housing Act 1998*. The *Housing Act*

⁵⁴ PBC Deb 14 June 2011 cc181-2

⁵⁵ PBC Deb 14 June 2011 cc189-92

⁵⁶ PBC Deb 14 June 2011 c199

⁵⁷ PBC Deb 14 June 2011 c195

⁵⁸ PBC Deb 14 June 2011 c198

⁵⁹ PBC Deb 14 June 2011 c207

⁶⁰ PBC Deb 14 June 2011 c212

⁶¹ PBC Deb 14 June 2011 cc222-3

⁶² PBC Deb 14 June 2011 c234

⁶³ PBC Deb 14 June 2011 c237

allowed a landlord legally to end a shorthold tenancy by giving the tenant a minimum of two months' notice, without having to give any reasons. The new clause would stop a landlord from using those powers once a tenant had requested energy efficiency improvements under the provisions of the Bill.

Gregory Barker recognised the concerns and wanted further time to investigate them. He would set up a working group, but there would not be time to include an amendment in the Bill, partly because tenant protection was a matter for DCLG.⁶⁴

Clause 46 was passed with four Government amendments. Amendment 149 made the date for regulating non-domestic landlords the same as that for domestic landlords: no later than 1 April 2018. Amendments 146 and 149 also made it a duty not a power of the Secretary of State to make regulations no later than 2018. Amendment 148 gave the option to create a requirement that bites from April 2018 for all properties at once, or from when properties are re-let after April 2018. Amendment 147 made a technical change.⁶⁵ Clauses 47 and 48 were ordered to stand part of the Bill.⁶⁶ Clause 49 was approved with only a technical amendment and ordered to stand part of the Bill along with clause 50.⁶⁷

Clauses 51 to 63 relate to Scotland. **Gregory Barker** explained the Government amendments:

The Government amendments to the Scottish private rented sector clauses largely mirror the changes to the English and Welsh provisions. There are, however, some key differences. First, Scottish Ministers intend to retain a power, rather than create a duty, to make regulations in the private rented sector. Secondly, the earliest date that Scottish Ministers could make regulations is 1 April 2015, in respect of the Bill's domestic tenant and non-domestic provisions. Finally, Government amendments 160, 161 and 165 are minor technical amendments that replace "costs" with "expenses"—something that we are all familiar with—to provide consistency throughout the Bill. As this is a devolved area of policy, it is up to Scottish Ministers to decide if and how to legislate for energy efficiency in the private rented sector in Scotland.⁶⁸

Clauses 51 to 63 were approved with these amendments.

4.3 Energy Company Obligation: clauses 65 to 70

The Green Deal seeks a replacement of the current obligations on energy suppliers to reduce carbon dioxide emissions from homes with a new obligation that focuses on energy efficiency for vulnerable households, those in fuel poverty and those living in hard to treat properties. This is known as the Energy Company Obligation (ECO). It would be introduced under Chapter 4 of the Bill.

The Minister, **Gregory Barker**, responded to a number of points regarding the way in which the ECO would function, by assuring Members that the detailed arrangements would be developed in consultation later in 2011. The consultation would include consideration of the scale of the ECO and how it would be targeted. The ECO would be taken forward in secondary legislation.

A number of amendments were tabled seeking to ensure that providers other than energy companies can bid to deliver work under the ECO. **Luciana Berger** said that the

⁶⁴ PBC Deb 14 June 2011 cc242-3

⁶⁵ PBC Deb 14 June 2011 c248

⁶⁶ PBC Deb 14 June 2011 c252

⁶⁷ PBC Deb 14 June 2011 c253

⁶⁸ PBC Deb 14 June 2011 c253

amendments would ensure that the ECO is available through any Green Deal provider and not monopolised by the big six energy companies “because a monopoly on the ECO could give the energy companies a competitive advantage and enable them to outsell other Green Deal providers.” She went on that “we want the widest possible range of providers involved in the Green Deal”, including small and medium-sized enterprises.⁶⁹

Gregory Barker responded that he was not persuaded that such an amendment was necessary at this stage, and asserted that existing broad powers in the Bill could address the issue should “companies choose to distribute subsidies in fundamentally anti-competitive ways”. However, he noted that Green Deal providers were looking for assurances about this, and that was why the Department was “actively exploring with energy companies, local authorities and a plethora of smaller stakeholders and SMEs the possibility of a mechanism to bring together energy companies and green deal providers in an open market”.⁷⁰ He said that more information about this would become available in the proposed ECO consultation in the autumn.⁷¹ The amendments were withdrawn.

There was further debate regarding the amount of money that the ECO should deliver. **Caroline Lucas** and other Members raised concerns that the indicative size of the ECO, £1-2 billion p.a. over ten years, would be inadequate to the task of improving the energy efficiency of homes.⁷² She said that “the Institute for Public Policy Research ... estimated that between £30 billion and £60 billion are required to overhaul the homes of the fuel-poor”.⁷³

4.4 Smart Meters: clause 71

Amendment 168 proposed by **Luciana Berger** and others, to introduce an independent Code of Practice for Installation, was withdrawn. A voluntary code is already expected. The advisability of adequate consumer protection was raised during the passage of the Bill through the Lords.

New clauses 36 and 37 were discussed covering a smart metering strategy and an annual report to Parliament on the progress of the rollout, respectively. **Huw Irranca-Davies** said that he agreed to withdraw the proposed new clauses following the Minister’s assurance that there is already a legally binding obligation on Government to report on such matters, and that the Minister would clarify in writing to members of the Committee how the duty to report would be discharged.⁷⁴

Clause 71 was ordered to stand part of the Bill.

4.5 Security of Electricity Supply: clauses 77 and 78

There were no proposed changes to clause 77 which was ordered to stand part of the Bill.

Caroline Lucas proposed amendments 169 and 170 to clause 78 to ensure that distributed energy is formally recognised in energy policy. After **Charles Hendry**, Minister for Energy and Climate Change, assured her that it was already an integral part of energy policy and covered by the Bill, she withdrew the amendments.⁷⁵ Clause 78 was ordered to stand part of the Bill without amendment.

⁶⁹ PBC Deb 16 June 2011 c261

⁷⁰ PBC Deb 16 June 2011 c265

⁷¹ PBC Deb 16 June 2011 c265

⁷² PBC Deb 16 June 2011 c273

⁷³ PBC Deb 16 June 2011 c273

⁷⁴ PBC Deb 16 June 2011 cc315-33

⁷⁵ PBC Deb 16 June 2011 cc339-46

4.6 Upstream Petroleum Infrastructure: clauses 80 to 89

Charles Hendry said Government amendments were intended to clarify the scope of the chapter and refine it to make the powers provided more effective, both for the Secretary of State and industry.⁷⁶ Government new clause 11 - Acquisition of rights to use gas processing facilities for downstream purposes – would make a number of amendments to s.12 of the *Gas Act 1995*, which at present covered third-party access both upstream and downstream. The Government wanted different regimes governing access to upstream and downstream gas facilities. They wanted to amend s.12 so that that regime only applied to downstream facilities, leaving the new regime set out in clauses 80 to 89 and schedule 2 to cover upstream petroleum infrastructure.

An exchange between **Caroline Lucas** and **Charles Hendry** demonstrated a fundamental difference. **Caroline Lucas** objected that the chapter aimed to facilitate exploitation of the last hardest-to-reach oilfields in UK waters. That would delay the point at which we could wean ourselves off unsustainable fuel and reduce pressure to maximise the potential of energy efficiency. The fields would be operated by marginal operators who might be unable to pay compensation in the case of an oil spill.

Charles Hendry agreed that we needed to wean ourselves off oil and gas but for the foreseeable future it would be a gradual change. Hard to reach fields were not necessarily riskier. The clause would make no difference to long-term liability cover. **Caroline Lucas** said that climate change could not wait for us gradually to wean ourselves off fossil fuels. The chapter of the Bill was about facilitating access to the remaining oil reserves and that was “incredibly dangerous”.⁷⁷

4.7 Special Administration Regime: clauses 90 to 99

Clauses 90 to 99 were all ordered to stand part of the Bill without amendment, except clause 95. On this, **Charles Hendry** moved Government amendment 63, and discussed amendments 64, 65 and 80, and new clause 17. These were technical amendments to deal with the Secretary of State’s powers to amend transmission and interconnector licences. All the proposed changes were agreed and the amended clause ordered to stand part of the Bill.⁷⁸

4.8 Offshore Electricity Generation: clause 101

Huw Irranca-Davies raised the outstanding issue on the clause, which had been discussed throughout the passage of the Bill, about compensation to offshore renewable operators in the event of the Secretary of State (SoS) terminating a lease in favour of an oil or gas company development. **Charles Hendry** assured him that the SoS would expect the renewable and oil or gas operator to negotiate a settlement. He said “categorically that, if the oil or gas company were not prepared to offer appropriate compensation, the SoS would not intervene and the lease would not be affected.” This satisfied **Huw Irranca-Davies**.⁷⁹ Subsequently, the Minister amplified the position in a written ministerial statement.⁸⁰

Clause 101 to enable implementation of an enduring offshore electricity transmission regime was ordered to stand part of the Bill without amendment.

⁷⁶ PBC Deb 16 June 2011 cc347-8

⁷⁷ PBC Deb 16 June 2011 cc350-1

⁷⁸ PBC Deb 16 June 2011 cc353-4

⁷⁹ PBC Deb 21 June 2011 cc357-8

⁸⁰ HC Deb 12 July 2011 cc12-3WS

4.9 Nuclear Decommissioning Programme: clause 102

Charles Hendry explained that discussion with Members of the Committee had led to the conclusion that clause 102 did not adequately deal with “unforeseen circumstances” that might arise during a decades-long decommissioning agreement. He therefore decided to withdraw the clause from the Bill, work with other Members to address the issues, and table a new clause at Report Stage.

Huw Irranca-Davies expressed the concerns that had led to his and others’ amendments:

The amendments... seek to find the right balance between the need to protect the interests of the taxpayer and the energy bill payer, the need to give certainty to potential nuclear investors that a future Secretary of State could not act unreasonably in loading disproportionate and unexpected costs on top of already agreed contracts, and the need to protect against unknown future eventualities.⁸¹

Alan Whitehead spoke about his amendment, 173. Amendments 174 and 175 were considered with it:

The amendment [173] would return us to the position, with some modifications, in the Energy Act 2008 in relation to the Secretary of State’s power to intervene. That Act essentially provided for nuclear site licence holders to submit a funded decommissioning programme, for that to be approved and modified by the Secretary of State and for future modifications to be accommodated should new circumstances arise. Under section 48, if new circumstances arise, proposals to modify the decommissioning agreement and programme may be made by either the Secretary of State or the operator, but the Secretary of State has a power not only to make the final decision on approving a modified programme, but to act unilaterally should unforeseen circumstances arise.

My understanding is that the clause conflates that process.⁸²

He summarized his concern:

unforeseen circumstances and balance of reason in making decisions do not appear to be taken into account in the clause. (...) I hope that [the Government] will introduce a new clause that, while providing as much certainty for both sides as is possible about decommissioning programmes, takes unforeseen circumstances into account and gives the Secretary of State power to deal with them, provided that such a power is used reasonably.⁸³

Caroline Lucas said:

The number of signatures on the amendment signal the strong feeling on both sides of the Committee and the real concern about the wording in the clause. I back the original purpose of the amendments, because I want the Secretary of State to retain his powers to modify a decommissioning agreement on his own, without requiring the agreement of the plant operator. I want to ensure that any decommissioning agreement can be modified such that obligations are added and not removed.⁸⁴

Charles Hendry explained the reason behind the clause:

⁸¹ PBC Deb 21 June 2011 c359

⁸² PBC Deb 21 June 2011 c360

⁸³ PBC Deb 21 June 2011 c360

⁸⁴ PBC 21 June 2011 c360

it became clear to us that the power introduced in the 2008 Act was very strong. It gave the Secretary of State an absolute power, to use at will, to change what the nuclear companies would have seen as a legal contract. They were concerned that they were being asked to invest billions and billions of pounds when at any point in the future a Secretary of State could change the ground rules. Understandably, they said that they felt that they had to have a greater sense of equity.⁸⁵

The clause was negated and the proposed amendments withdrawn.

4.10 Home Energy Efficiency: clause 105

Gregory Barker proposed Government amendment 66, to repeal the *Home Energy Conservation Act 1995* (HECA) in Scotland and in relation to energy conservation authorities in Wales. The amendment would leave it in force only in England.

Gregory Barker explained that the HECA requires all authorities to report on “practicable and cost-effective ... measures that are likely to result in a significant improvement in the energy efficiency of residential accommodation in their area.” Scottish and Welsh administrations already have their own arrangements in place under their own competence which they judge make HECA superfluous.

He believes that provision should exist explicitly to encourage local authority action on energy efficiency. The Green Deal and the ECO in the Bill create “the means, the framework and the ability to drive that agenda.” Hence he intends to retain the HECA requirement for local authorities in England to report on such measures.

Luciana Berger expressed concern about funding for HECA officers following local authority budget cuts. **Gregory Barker** explained that he sees it as “not only an opportunity for local authorities to save money by utilising officer time that they already devote to the issue; it is an opportunity for them to make money by working in partnership to offer programmes on a large scale in their areas with the private sector.”⁸⁶

Amendment 66 and other minor Government amendments were accepted and the amended clause ordered to stand part of the Bill.

4.11 Security of Nuclear Construction sites: NC 12

Gregory Barker proposed new clause 12 to bring the regulation of nuclear construction sites within the remit of the *Anti-terrorism, Crime and Security Act 2001*. This was ordered to stand part of the Bill without debate.⁸⁷

4.12 Carbon Capture and Storage: NC 13 and 14

The Minister, **Charles Hendry**, proposed two new clauses. New clause 13 will give the Secretary of State discretionary power to designate offshore pipelines and installations that are intended to be used as part of a CCS demonstration project.⁸⁸ New clause 14 will allow the compulsory acquisition of rights to transport carbon dioxide through a pipeline previously used for another purpose.⁸⁹

⁸⁵ PBC 21 June 2011 c362

⁸⁶ PBC 21 June 2011 cc364-8

⁸⁷ PBC Deb 21 June 2011 c386

⁸⁸ PBC Deb 21 June 2011 c373

⁸⁹ PBC Deb 21 June 2011 c374

4.13 National Parks and the Broads Authority: NC 42

New clause 42, proposed by **Charles Hendry**, clarifies the powers of these bodies to generate renewable electricity similar to the powers granted to local authorities. According to the Minister “the amendment unambiguously states that national park authorities may generate electricity within specified constraints and sell it. It also allows them to enter into joint ventures to do so and to grant-aid others to do so”.⁹⁰

⁹⁰ PBC Deb 21 June 2011 c380

Appendix 1 – Membership of the Committee

Chairs: Mr David Crausby and Mr Edward Leigh

19 Members;

Mr David Anderson

Gregory Barker

Luciana Berger

Mr Steve Brine

George Freeman

Zac Goldsmith

Tom Greatrex

Charles Hendry

Huw Irranca-Davies

Margot James

Graham Jones

Ian Lavery

Caroline Lucas

Tessa Munt

Claire Perry

Mr Shailesh Vara

Dr Alan Whitehead

Simon Wright

Nadhim Zahawi