



UK ENERGY SECURITY BILL INTRODUCED AMID POLITICAL TURMOIL HAS WIDE-RANGING IMPLICATIONS FOR THE SECTOR

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Legal Briefings - By **Paul Butcher, Sarah Pollock and Silke Goldberg**

Amid political uncertainty, the Government last week published its long-awaited Energy Security Bill. Despite the political turmoil, this is expected to survive to become the most wide-ranging reform of the UK's energy market for several years.

On 6 July 2022, the [Energy Security Bill](#) (Bill) was published and introduced to Parliament for its first reading alongside [this announcement](#) and these [factsheets](#). It draws together a range of measures already variously trailed, most recently in the Government's [British Energy Security Strategy](#) in April 2022 and in the latest [Queen's Speech](#).

The main theme of the Bill is encouraging the £100 billion private investment that the Government estimates is necessary by 2030 to drive the next phase of the energy transition while maintaining security of supply. Key new measures include:

- support for the deployment of low carbon technologies at scale such as carbon, capture, usage and storage (CCUS) and hydrogen;
- extending competition to onshore electricity networks and introducing a special energy network merger regime analogous to that already in place for the water sector;
- various consumer facing measures including extending the duration of the default tariff (price cap), the Government's smart metering powers and introducing new powers to drive the rollout of smart appliances (including electric vehicle chargepoints); and

- various measures relating to the oil and gas sector and to the nuclear sector respectively.

Under each category we have listed the key proposals with a brief overview of the measure for each. Click the headings to reveal.

In the coming weeks we will be publishing more detailed briefings on some of the key areas. Subscribe to our [Energy notes blog](#) to avoid missing any updates.

ENCOURAGING PRIVATE INVESTMENT IN CLEAN TECHNOLOGIES

CARBON DIOXIDE TRANSPORT AND STORAGE REGULATORY INVESTMENT MODEL

CO2 transport and storage licencing framework:

The Bill will establish an economic regulation model for CO2 transport and storage, with statutory objectives and legal powers for Ofgem as the economic regulator of CO2 transport and storage. CO2 transportation by pipeline for geological storage operations will require a licence which among other things will determine the revenue which a transport and storage operator can receive via charges to network users.

Ofgem will have oversight of charges and determine whether costs are economic and efficient with a process for appeals by operators.

Other measures:

The Bill will also establish:

- requirements for Funded Decommissioning Programmes to ensure sufficient funds are in place for safe decommissioning of infrastructure at the end of its operational lifetime;
- a special administration regime for the event of a transport and storage company insolvency; and
- a statutory transfer scheme to provide step-in rights for the Secretary of State where

there would otherwise be a licence termination.

See factsheet [here](#).

HYDROGEN AND INDUSTRIAL CARBON CAPTURE BUSINESS MODELS

Among other things the Bill will provide the Secretary of State with powers to:

- incur expenditure and provide long-term financial assistance to support the proposed [hydrogen](#) and [Industrial Carbon Capture \(ICC\)](#) business models;
- designate and direct a counterparty for the contracts providing such revenue support;
- appoint an allocation body and set out the allocation process for revenue support in regulations (initially expected to be bilaterally and in due course competitively);
- make regulations which will establish a hydrogen production levy.

See factsheet [here](#).

ENABLING THE HYDROGEN VILLAGE TRIAL

The Bill will enable a hydrogen heat grid conversion trial. This will connect residential consumers in the relevant village to hydrogen instead of natural gas. The trial will provide evidence to inform decisions on the role of hydrogen in the UK's heat decarbonisation.

See factsheet [here](#).

DEFINING ELECTRICITY STORAGE TO PROVIDE GREATER CERTAINTY

The Bill will formalise electricity storage as a distinct subset of electricity generation in the Electricity Act 1989 to remove current ambiguities and provide long-term clarity and certainty over its treatment within the existing frameworks (eg, planning and licensing) and possible future frameworks in order to encourage greater investment. The Bill defines the storage as energy that was "converted from electricity" and is "stored for the purpose of its future reconversion into electricity".

See factsheet [here](#).

MULTI-PURPOSE ELECTRICITY INTERCONNECTORS TO COMBINE WITH OFFSHORE TRANSMISSION

Multi-purpose interconnectors are subsea electricity cables that connect GB to neighbouring markets and, at the same time, connect offshore generation to the mainland. Multi-purpose interconnectors are a new asset type and are therefore not yet defined in law. This Bill will therefore introduce a new legal definition into the Electricity Act 1989, alongside a new licensable activity of operating a multi-purpose interconnector. The Bill also introduces a power for the Secretary of State to introduce standard conditions for multi-purpose interconnectors.

See our briefing [here](#) and the factsheet [here](#).

HEAT NETWORKS REGULATION AND ZONING

The Bill appoints Ofgem as heat networks regulator and has powers to introduce an authorisation regime so that organisations that supply heat through a heat network or operate a heat network can be regulated. The Bill provides for the introduction of authorisation conditions and other regulations set by government and Ofgem. The Bill also has powers to introduce a licensing regime through which Ofgem will be able to grant licences that give heat network developers rights and powers similar to those held by other utilities.

See factsheet [here](#).

ECONOMIC REGULATION REFORMS

EXTENDING COMPETITION TO ONSHORE ELECTRICITY NETWORKS

The Bill will enable [competitions](#) to be run for the build, ownership and operation of onshore electricity networks in Great Britain, building on the existing competition regime which exists in respect of offshore transmission assets. It will give the Secretary of State powers to appoint a body to run tenders and to set criteria to determine a network project's eligibility to be competed. It will also extend Ofgem's power to make regulations which will set out the process by which tenders will be run.

See factsheet [here](#).

ENERGY NETWORK SPECIAL MERGER REGIME TO BE INTRODUCED

The Bill will amend primary legislation (the Enterprise Act 2002) to require the Competition and Markets Authority (CMA) in certain circumstances to assess whether a merger between energy network companies substantially prejudices Ofgem's ability to carry out its functions when Ofgem compares data from all these companies to set price controls. This will mirror the arrangements in the water sector.

See factsheet [here](#).

CHANGES TO STRATEGIC OVERSIGHT

NEW INDEPENDENT SYSTEM OPERATOR TO BE ESTABLISHED WITH STRATEGIC OVERSIGHT ACROSS ELECTRICITY AND GAS SYSTEMS

This Bill will establish the Future System Operator (known in the Bill as the Independent System Operator or ISOP), an independent body. The new ISOP will be tasked with strategic oversight across electricity and gas systems. The ISOP is intended to look at Great Britain's energy system as a whole, integrating existing networks with emerging technologies such as hydrogen and providing strategic oversight across both the electricity and gas systems.

The Bill provides for a transfer scheme to transfer the existing capabilities and functions of NGENSO and, where appropriate, National Grid Gas, carried out by other entities including NGENSO to the ISOP.

See factsheet [here](#).

GOVERNANCE OF THE ENERGY CODES: OFGEM TO BE GIVEN STRATEGIC CONTROL

The energy codes (setting out the detailed rules of the electricity and gas systems) are, currently, generally governed by committees with industry membership, such as electricity suppliers and gas transporters.

To give greater independent strategic direction to these codes, the Bill will give Ofgem new functions in relation to how the codes evolve in the future. Among other things, Ofgem will have a duty to publish an annual strategic direction statement setting out its vision for how the codes should evolve over the following year informed by government policy and other factors.

Ofgem will also be able to select and license code managers, who will take over responsibility for managing the code change process and be required to deliver the strategic direction set by Ofgem, in consultation with industry and other interested parties via new stakeholder advisory forums.

See factsheet [here](#).

OIL & GAS SECTOR MEASURES

OFFSHORE OIL AND GAS DECOMMISSIONING COST RECOVERY FOR GOVERNMENT FUNCTIONS

The Department for Business, Energy and Industrial Strategy (BEIS) provides regulatory functions for offshore oil and gas decommissioning. It is currently unable to recover the full costs of undertaking these functions from industry. The Bill will provide the Secretary of State with powers to establish a charging scheme for these costs. The charging scheme will specify which functions can be charged for.

See factsheet [here](#).

NEW NORTH SEA TRANSITION AUTHORITY CHANGE OF CONTROL POWERS PRIOR TO A CHANGE OF CONTROL EVENT

The Bill will allow the North Sea Transition Authority (NSTA) to identify and prevent any potentially undesirable change of control of a licensee company holding a petroleum licence before it happens, rather than having to seek to remedy it after it has taken place. Undertaking a change of control without NSTA's consent could result in the licence being revoked.

Where the NSTA are the licensing authority, this measure will amend certain clauses relating to change of control in all current and future seaward petroleum production licences, landward petroleum production licenses and carbon storage licences.

See factsheet [here](#).

CORE FUEL RESILIENCE: NEW GOVERNMENT POWERS TO INTERVENE

The Bill will provide three key powers to the Secretary of State to maintain continuity of core fuel supplies and ensure that industry maintains or improves its resilience to reduce the risk of emergencies affecting fuel supplies:

- direction making (eg, directing an operator to prioritise the production of a particular fuel);
- information (eg, may impose a duty for major operators to report an incident which poses a significant threat to the continuity of fuel supply); and
- financial assistance (to allow Government support to implement resilience protection or improvement measures).

See factsheet [here](#).

OFFSHORE OIL AND GAS HABITATS ASSESSMENT AND EMERGENCY POLLUTION PLANNING RESPONSE

The Bill would give powers to BEIS' Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) to make changes via secondary legislation to the current offshore oil and gas environmental regime in connection with offshore energy activities involving oil and gas, gas unloading & storage, CO2 storage, and hydrogen production & storage to provide for habitats protection for protected sites / species and emergency plans for responding to pollution incidents (such as a major oil spill).

See factsheet [here](#).

NUCLEAR SECTOR MEASURES

NUCLEAR FUSION - MEASURES TO AVOID DISPROPORTIONATE REGULATION

The Bill will amend the Nuclear Installations Act 1965 to clarify that fusion energy facilities will not be subject to nuclear site licencing requirements, and therefore will not be regulated under the same regime as nuclear fission. This means that fusion will continue to be regulated in the UK by the Health and Safety Executive and environmental regulators, rather than by the Office for Nuclear Regulation. This reflects the lower hazard risks associated with fusion and will avoid regulation which would otherwise have been disproportionate and more costly than necessary.

See factsheet [here](#).

ENABLING ACCESSION TO THE CONVENTION ON SUPPLEMENTARY COMPENSATION FOR NUCLEAR DAMAGE

The legislation will enable UK accession to a second international nuclear third-party liability treaty, the Convention on Supplementary Compensation (CSC). The CSC is an international convention designed to provide a clear route to compensation for damages in the case of a nuclear incident. It is a freestanding instrument, independent of, and supplementary to, the Paris and Vienna Conventions. It is open to all states, whether they have nuclear installations or not, and whether they are party to the Paris or Vienna Convention or else have alternative qualifying arrangements in place.

The UK is already party to another international nuclear third-party liability treaty, the Paris Convention (and Brussels Supplementary Convention). The Conventions are implemented in the UK by the Nuclear Installations Act 1965.

The US, Canada, and Japan, are parties to the CSC so expanding treaty relations to these strategic partners (by the UK joining the CSC), among other things, removes some of the potential barriers to their investment in the UK nuclear sector.

See factsheet [here](#).

LICENSING OF GEOLOGICAL DISPOSAL FACILITY FOR NUCLEAR WASTE BENEATH THE SEABED

A Geological Disposal Facility (GDF) is necessary for the decommissioning of the UK's civil nuclear legacy and new build nuclear power programme. The Bill will amend the Nuclear Installations Act 1965 and Energy Act 2013 to 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). Using an existing delegated power in the Nuclear Installations Act 1965, a statutory instrument will be brought forward in due course, amending the Nuclear Installations Regulations 1971, to make a GDF (whether located beneath the seabed or otherwise) a prescribed installation that requires a licence, and as such, subject to ONR regulation.

See factsheet [here](#).

ENSURING THE FUTURE OF THE CIVIL NUCLEAR CONSTABULARY

The Bill will amend the Criminal Justice and Public Order Act 1994 so that members of the Civil Nuclear Constabulary (CNC) can exercise the cross-border enforcement powers in Part X of that Act. This will allow the CNC to apprehend an individual who is suspected of committing an offence in one jurisdiction but is present in another – either by the execution of a warrant or exercising powers of arrest in the absence of a warrant.

See factsheet [here](#).

FINAL STAGES OF NUCLEAR DECOMMISSIONING: THE REGULATORY FRAMEWORK WILL BE ADAPTED TO AVOID DISPROPORTIONATE REGULATION

The final stages of decommissioning and clean-up of nuclear sites, hazards and risks

fall to similar levels found on non-nuclear industrial sites. The Bill will therefore simplify the regulatory framework that applies to the final stages of nuclear decommissioning and nuclear third-party liability regime to better reflect actual risks. In particular, it will enable nuclear sites to be delicensed from the nuclear licensing regime regulated by the Office for Nuclear Regulation earlier than now.

See factsheet [here](#).

CONSUMER FACING MEASURES

REGULATION OF LOAD CONTROL AND ENERGY SMART APPLIANCES (INCLUDING ELECTRIC VEHICLE CHARGEPOINTS)

The Bill will give the Government powers to introduce regulations for energy smart appliances such as smart EV chargepoints and smart heat pumps so that devices meet minimum technical requirements for cyber security, interoperability, data privacy and grid stability. These powers will also allow Government to mandate that electric heating appliances and EV chargepoints must have smart functionality and prohibiting the sale of non-smart devices in Great Britain.

See factsheet [here](#).

SMART METERING POWERS TO BE EXTENDED FOR A FURTHER FIVE YEARS (TO NOVEMBER 2028)

The Secretary of State currently has powers to modify energy licence conditions and industry codes for the purposes of the rollout of smart meters. These powers are due to expire on 1 November 2023. The Bill will allow these powers to continue to be available to the Secretary of State for a further five years until 1 November 2028.

See factsheet [here](#).

DEFAULT TARIFF (PRICE CAP) FOR CONSUMERS

The Bill will enable the consumer price cap to be extended beyond 2023 if the relevant conditions for extension are met. The price cap will not be automatically extended. Where the Secretary of State concludes that the conditions for effective competition have not been met for domestic supply contracts, they must lay an affirmative statutory instrument to extend the tariff cap conditions for two years at a time (or, exceptionally, for a year).

See our briefing [here](#) and factsheet [here](#).

ENERGY COMPANY OBLIGATION (ECO) BUY-OUT MECHANISM

The ECO places an obligation on energy suppliers to install energy efficiency and heating measures in Great Britain and is focused on providing support primarily to low income and vulnerable households. Suppliers meet their obligation by contracting with a third party to find eligible households and install measures. The Bill will enable the removal of obligation thresholds under the scheme without creating significant financial and administrative burden for small suppliers.

See factsheet [here](#).

LOW-CARBON HEAT SCHEME TO ENCOURAGE A HEAT PUMP SUPPLY CHAIN AND ROLLOUT

The Bill enables the introduction of a new Low-Carbon Heat Scheme. The scheme will place an obligation on the manufacturers of fossil fuel heating appliances to meet a rising standard for low-carbon heat pump sales as a proportion of their total appliance sales. Manufacturers will be able to meet the new standard either through sales of their own heat pumps, or by purchasing credits from other heat pump manufacturers, or a mix of both.

See factsheet [here](#).

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