

ENERGY PRICES BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Energy Prices Bill as brought from the House of Commons on 18 October 2022 (HL Bill 59).

- These Explanatory Notes have been prepared by the Department for Business, Energy and Industrial Strategy in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 The purpose of the Bill is to address the negative social, economic and other impacts of the current unprecedentedly high energy prices.
- 2 The Bill aims to do the following:
 - a. Facilitate the delivery of the domestic energy price guarantee for households in Great Britain and Northern Ireland to reduce the unit cost of electricity and gas.
 - b. Facilitate the delivery of the Energy Bill Relief Scheme for Great Britain, and the Energy Bill Relief Scheme for Northern Ireland, by providing a discount on electricity and gas bills for all eligible non-domestic customers (including businesses, the voluntary sector such as charities, and the public sector such as schools and hospitals).
 - c. Facilitate the delivery of the Energy Bills Support Scheme and other energy schemes in Northern Ireland.
 - d. Enable payments to be made to both domestic and non-domestic alternative fuels consumers who are not able to receive support for their heating costs through either the Energy Price Guarantee or the Energy Bill Relief Scheme.
 - e. To provide financial assistance for domestic and non-domestic energy consumers in response to the current very high energy prices.
 - f. Amend existing legislation to enable Government to offer Contracts for Difference to existing electricity generators, to provide long-term revenue certainty to generators and protect consumers from future price rises.¹
 - g. Require certain generators currently receiving supernormal revenues to make a payment to a third party where revenue received for generated electricity is above a specified level, for purposes of lowering the cost of electricity for consumers, or to meet expenditure incurred by the Secretary of State in reducing such costs.
 - h. Require intermediaries to pass through savings from energy price support to end users who pay their energy bill through a third party.
- 3 Through the powers in the Bill the Government will also:
 - a. Ensure that Energy Bill Relief Scheme cost reductions are passed onto heat network consumers in the form of lower heat bills.
 - b. Strengthen the existing database of information held about heat networks and their consumers so that Government can provide a one-off £100 payment to households.

¹ <https://www.gov.uk/government/publications/contracts-for-difference/contract-for-difference>

Policy background

- 4 The global energy crisis, which has been compounded by the Russian invasion of Ukraine on 24 February 2022, has seen energy bills increase significantly. Without intervention, from 1 October 2022, the annual energy bill for a typical household was due to increase from £1971 to £3549, with further increases expected in January 2023 to an estimated £4200.² For many consumers this is unaffordable and the implications for the economy are significant.
- 5 In response to the energy crisis, the Government announced the [Energy Bills Support Scheme](#)³ which will provide £400 energy bills discount for all households in Great Britain delivered through domestic electricity suppliers. The Bill will enable the Energy Bills Support Scheme to be extended to Northern Ireland.
- 6 The Northern Ireland Energy Bills Support Scheme (NI EBSS) will ensure equivalent support is provided for households in Northern Ireland. Given the devolved context, currently the UK Government does not have a robust legislative basis to deliver NI EBSS. NI EBSS will primarily be delivered through a Direction by the Secretary of State to energy licence holders, which will detail how the NI EBSS scheme will work, and energy licence conditions will be modified to embed and require compliance with this Direction. The Bill will enable Government to underpin NI EBSS on a more secure statutory footing, provide the UK Government with greater assurance and use the existing Northern Irish energy regulatory framework, all helping to deliver support to households in Northern Ireland this winter.
- 7 In addition to this, in September 2022, the Government announced a new [Energy Price Guarantee \(EPG\)](#).⁴ The EPG scheme will use Government funding to allow energy suppliers to reduce domestic consumer bills, by reducing the amount consumers are charged for each unit of gas and electricity used in their homes. The EPG will apply from 1 October 2022 keeping the annual energy bill for the typical household to around £2,500.⁵ The new guarantee will apply to households in Great Britain, and a similar scheme will provide the same level of support to households in Northern Ireland from 1 November 2022.
- 8 A review of the scheme will be undertaken to consider how to support households and businesses with energy bills after April 2023. The objective of the review is to design a new approach that will be targeted to the most vulnerable households and those least able to pay, with greater incentives to improve energy efficiency.
- 9 In the case of NI EBSS and the EPG, the UK Government is legislating for Northern Ireland. Given energy policy is transferred in Northern Ireland, under normal circumstances, the Northern Ireland Executive and the Northern Ireland Assembly would implement equivalent schemes locally, if desired, using money made available via the Northern Ireland Consolidated Fund, relying on using Barnett consequentials.⁶ In the absence of an Executive, caretaker Northern Ireland Ministers are unable to implement support on this scale locally, and Northern Ireland political leaders and the Northern Ireland Civil Service have requested that

² Forward gas and electricity prices as of 12 September 2022 would imply a further increase in the price cap in January 2023, to around £4,200. BEIS analysis

³ <https://www.gov.uk/guidance/getting-the-energy-bills-support-scheme-discount>

⁴ <https://www.gov.uk/government/news/government-announces-energy-price-guarantee-for-families-and-businesses-while-urgently-taking-action-to-reform-broken-energy-market>

⁵ Consistent with Ofgem's Typical Domestic Consumption Values for a medium dual fuel household: 2.9MWh p.a. electricity and 12MWh p.a. gas

⁶ The Barnett formula is the way the UK Government ensures that a share of additional funding - allocated only to England - is provided fairly to Scotland, Wales and Northern Ireland.

the UK Government act in their stead. The Bill does comply with the provisions of the Northern Ireland Protocol relating to a single electricity market for Ireland/Northern Ireland.

- 10 To support businesses, charities and public sector organisations such as schools and hospitals, the Government announced the [Energy Bill Relief Scheme for Great Britain \(EBRS GB\)](#)⁷ and the intention to bring forward the Energy Bill Relief Scheme for Northern Ireland (EBRS NI) in September 2022. The scheme will provide a price reduction for all eligible non-domestic customers whose current gas and electricity prices have been significantly inflated in light of global energy prices. The scheme can run for a maximum period of two years after the first date the regulations provide for the reduction of electricity or supply charges. The Government intends to publish a review of the scheme in 3 months, which will consider how best to offer further support to customers who are the most vulnerable to energy price increases.
- 11 The Government recognises that consumers not connected to either the gas or electricity grid will not benefit from the EPG or the EBRS. In response, the Government will also introduce Alternative Fuel Payment schemes for both domestic and non-domestic consumers for both Great Britain and Northern Ireland. The domestic Alternative Fuel Payment will act by providing a one-off, lump sum £100 support payment through a household's electricity bill. Eligible households who do not receive support through their electricity bill will be able to access the payment via an AFP Discretionary Fund. Heat network consumers will also receive a £100 support payment. The Non-Domestic Alternative Fuel Payment will likely take the form of a flat rate payment. Powers will enable the Government to deliver support via electricity bills in both Great Britain and Northern Ireland, under a similar delivery model to the Energy Bills Support Scheme, or to provide support through an alternative designated body (e.g. local authorities or other statutory body) if this proves practicable.
- 12 The Bill will enable financial assistance to be given to energy suppliers to meet obligations under the Government's energy support schemes such as those detailed above.
- 13 The Bill will also enable the Government to sever the link between abnormally high gas prices and the price of electricity from low carbon generators through the imposition of a temporary Cost-Plus Revenue Limit, ensuring consumers pay a lower amount for their low-carbon electricity, and allowing generators to cover their costs and receive an appropriate revenue that reflects their investment commitment and risk. At present the electricity price in the UK is set by the price charged by the most expensive, or marginal, source of energy for generation. In most cases this most expensive source of energy for generation is gas, and currently gas prices are significantly inflated in the UK in light of global energy prices. Low carbon generators operating in the market may have lower operating costs but still benefit from the high price in the wholesale market. By regulating for a temporary requirement for electricity generators to make payments and to enable existing electricity generators to be offered a Contract for Difference, the Bill will ensure that consumers pay a lower price for their low carbon electricity and that low carbon electricity firms do not unduly gain from the energy crisis.
- 14 The Bill will include powers to oblige intermediaries (e.g. private landlords) to pass through the benefit they receive from energy price support across the UK to their end users. This will provide support to those end users who are exposed to high energy costs but are not customers of licensed suppliers.

⁷ <https://www.gov.uk/guidance/energy-bill-relief-scheme-help-for-businesses-and-other-non-domestic-customers>

- 15 The passthrough requirements on intermediaries will apply to heat networks.⁸ Given heat networks buy energy through commercial tariffs, consumers will not receive a reduction in their heating costs through the domestic EPG. Heat networks will receive reductions in wholesale energy costs through the Energy Bill Relief Scheme for non-domestic consumers and will be eligible for the £100 heat network payment to households.
- 16 The passthrough requirements in this Bill will ensure that these cost reductions are passed onto heat network consumers in the form of lower heat bills. The measures will also strengthen the existing data held in relation to heat networks and their consumers so that Government can provide a one-off £100 payment to households.

Legal background

- 17 The UK's energy system is governed by a wide range of different pieces of legislation. A number of these are amended by this Bill. The legislation being amended, and a brief description of the main changes relevant to each, is provided below to assist the reader in placing some of the details described in these Explanatory Notes in context.
- 18 The Energy Act 2013 is amended for the purpose of creating the new powers in primary legislation necessary for Government to offer a new kind of Contract for Difference.
- 19 The Utilities Act 2000 is amended to allow the provisions in this Bill to be a source of modifications, to standard conditions of licences of the types referred to in s.33(1) of that Act.
- 20 Section 105 of the Utilities Act 2000 is amended to bring the EPG and EBRS schemes within scope of its protections on disclosure of information about individuals or particular businesses. It ensures that disclosure required for the schemes to operate effectively is permitted.
- 21 The Electricity Act 1989 is amended for the purpose of ensuring the Secretary of State or the Gas and Electricity Markets Authority have regard, in the course of performing certain duties under that Act and in accordance with that Act, to the need of licence holders to be able to finance activities which are the subject of obligations imposed by the Contracts for Difference scheme.
- 22 The Electricity Act 1989 and the Gas Act 1986 will be amended to include compliance with the Energy Price Guarantee domestic scheme within the list of relevant requirements which Ofgem may enforce.
- 23 The Bill will also engage matters that are transferred to Northern Ireland, necessitating changes to the following devolved energy legislation:
 - a. The Energy (Northern Ireland) Order 2003
 - b. The Electricity (Single Wholesale Market) (Northern Ireland) Order 2007

⁸ Heat networks are energy infrastructure that transfer heat from a central source to homes and businesses, typically through underground hot-water pipes. There are over 14,000 heat networks in the UK, providing heating and hot water to approximately 480,000 consumers.

Territorial extent and application

- 24 Clause 30 sets out the territorial extent of the Bill, that is the jurisdictions of which the Bill forms part of the law. The extent of a Bill can be different from its application. Application is about where a Bill produces a practical effect. The commentary on individual provisions (or groups of provisions) of the Bill includes a paragraph explaining their extent and application.
- 25 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned.
- 26 To the extent that the provisions of the Bill fall within the legislative competence of devolved legislatures, the legislative consent procedure would be appropriate.
- 27 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Fast-track legislation

- 28 The Government intends to ask Parliament to expedite the parliamentary progress of this Bill. In their report on Fast-track Legislation: Constitutional Implications and Safeguards⁹, the House of Lords Select Committee on the Constitution recommended that the Government should provide more information as to why a piece of legislation should be fast-tracked.¹⁰

Why is fast tracking necessary?

- 29 The Bill is emergency legislation in response to the current energy crisis. All provisions but one (Clause 18) will come into force on the day of Royal Assent to provide households and businesses with the certainty they need to manage their energy bills. It is crucial that this legislation comes into force as soon as possible to ensure households and businesses see reductions in their October (2022) energy bills wherever possible. Delaying this legislation could threaten otherwise viable businesses due to the high cost of energy or result in households responding to high costs by underheating their homes, creating health risks particularly for the most vulnerable.

What is the justification for fast-tracking each element of the bill?

- 30 Each element of the Bill is designed to enable the Government to respond expeditiously to manage the causes and effects of the current energy crisis and high energy bills.

What efforts have been made to ensure the amount of time made available for parliamentary scrutiny has been maximised?

- 31 The Bill has been introduced as soon as possible after the return of Parliament on 10 October 2022. The time for Parliamentary scrutiny has been extended as far as possible while ensuring that consumers and businesses receive support in time for their October (2022) energy bills.

To what extent have interested parties and outside groups been given an opportunity to influence the policy proposal?

- 32 To support the design of the schemes, policy officials have regularly engaged with affected stakeholders prior to the announcement of the Government energy support package and this

⁹ House of Lords' Constitution Committee, 15th report of session 2008/09, HL paper 116-I

¹⁰ House of Lords' Constitution Committee, 15th report of session 2008/09, HL paper 116-I, para. 186

engagement will continue throughout the Bill's passage. There has been specific engagement with interested bodies across each of the schemes, including energy generators and suppliers, trade bodies, other Government Departments, and regulators, across Great Britain and Northern Ireland.

Does the bill include a sunset clause (as well as any appropriate renewal procedure)? If not, why does the Government judge that their inclusion is not appropriate?

- 33 Relevant sunset provisions are included against the relevant measures within the Bill where this is appropriate: see in particular Clause 25 and Schedule 6 for the detailed provision. There is a power to review the operation of regulations under various sections: see Clauses 9(5) and 11(5).

Are mechanisms for effective post-legislative scrutiny and review in place? If not, why does the Government judge that their inclusion is not appropriate?

- 34 Given the time limits which have been placed on the exercise of powers contained in the Bill (see in particular Schedule 6), inclusion of any mechanism for post-legislative scrutiny is unlikely to be appropriate. The effectiveness of the legislation will be kept under review, in particular when considering whether any time period for the exercise of powers should be extended under Schedule 6.

Has an assessment been made as to whether existing legislation is sufficient to deal with any or all of the issues in question?

- 35 The Government has reviewed and assessed relevant existing legislation and concluded that all the provisions in the Bill are needed to deal with the issues which the Bill seeks to address.

Has the relevant parliamentary committee been given the opportunity to scrutinise the legislation?

- 36 Given the need to pass legislation at pace, the relevant committees have been engaged via written correspondence.

Commentary on provisions of Bill

Reduction of domestic energy bills in England, Wales and Scotland

Clause 1: Domestic electricity and gas price reduction schemes for Great Britain

- 37 This clause gives the Secretary of State power to establish the Energy Price Guarantee (EPG) schemes for electricity and for gas. Such schemes have already been established and operational from 1 October under contracts (“Scheme Documents”) with suppliers entered into on a voluntary basis.¹¹ The provisions in the Bill will put the schemes on a more secure statutory footing. This includes by requiring suppliers to apply to join, remain in and comply with the schemes, and for Ofgem to enforce any non-compliance.
- 38 Subsections (1) and (3) confer the powers to make the schemes. Subsections (2) and (4) define what the schemes are.
- 39 Subsection (5) refers to how the scheme reduction may operate. The current Scheme Documents provide, in high level summary, that:
- a. the Secretary of State will set the level of and pay financial support to electricity and gas suppliers to allow them to make reductions to the energy unit prices charged to consumers;
 - b. suppliers must pass to consumers, by reducing on a per kilo Watt hour (p/kWh) basis, the tariffs which would otherwise be charged, the whole of the support payments made to suppliers under the schemes.
- 40 Subsection (6) provides that the Secretary of State may amend or revoke a scheme, for instance to change the eligible tariffs or the support rate. The Scheme Documents between the Secretary of State and energy suppliers already give the Secretary of State the ability to make, modify and end the scheme.
- 41 Subsection (7) constrains the statutory modification power, so that it must be used consistently with the terms outlined in the Scheme Document.
- 42 Subsection (8) provides an exception to subsection (7) where the Secretary of State modifies the Scheme Documents to prevent profiteering. In such circumstances they need not comply with the terms on modification set out in the scheme.
- 43 Subsection (9) refers to the sunset provisions in Schedule 6.

Clause 2: GB electricity scheme: supplementary provision

- 44 This clause enables the Secretary of State to make regulations designating a domestic electricity price reduction scheme for Great Britain. The effect of designation is that the additional provisions set out in section 2 apply in relation to the designated scheme.
- 45 Subsection (1) provides the designation power. Clause 2 applies to the designated scheme as it has effect from time to time.
- 46 Subsection (2) imposes duties on electricity suppliers in relation to applying to join the designated scheme, and once joined to remain in and comply with the scheme (unless they leave in accordance with the scheme). Government expects all current suppliers to have joined

¹¹ The Scheme Documents are published on <https://www.gov.uk/government/publications/energy-bills-support/energy-bills-support-factsheet-8-september-2022>

the scheme by the time this section comes into force. This provision ensures that any new suppliers who enter the market are required to apply to join the scheme.

- 47 Subsection (3) requires the Secretary of State to publish the designated scheme as it has effect from time to time, so far as the Secretary of State considers it appropriate to do so.
- 48 Subsection (4) refers to paragraph 6(g) of Schedule 6A to the Electricity Act 1989 (which is inserted by paragraph 2 of Schedule 7 to the Bill). Paragraph 6(g) of Schedule 6A to the Electricity Act 1989 provides that the duties set out in subsection (2) for suppliers to apply to, remain in and comply with the designated scheme are 'relevant requirements' and so enforceable by Ofgem (using its powers in Part 1 of the Electricity Act 1989). The exception to this is where non-compliance with the terms of the scheme involves the amounts payable by or to the Secretary of State under the scheme (which is to be enforced under the terms of the Scheme Documents). Subsection (4) makes clear that such statutory enforcement does not prevent other remedies for non-compliance being pursued, for instance in the law of contract.
- 49 Subsection (5) provides that the Secretary of State is not liable in the law of contract for things done or omitted in the performance of the designated scheme unless the liability relates to payment of an amount under the scheme.
- 50 Subsection (6) provides that a domestic electricity price reduction scheme for Great Britain that was established before the power to establish such schemes under section 1(1) came into force may be designated under Clause 2. As noted above, an electricity scheme was established and operational from 1 October 2022. This subsection makes clear that this scheme may be designated.
- 51 Subsection (7) makes it clear that no statutory enforcement is permitted in relation to non-compliance occurring before the scheme was designated.
- 52 Subsection (8) states that regulations under section 2 are subject to the negative procedure.

Clause 3: GB gas scheme: supplementary provision

- 53 Clause 3 provides equivalent provision in relation to a domestic gas price reduction scheme in Great Britain to Clause 2 in relation to an electricity scheme. It enables the Secretary of State to make regulations designating a domestic gas price reduction scheme for Great Britain. The effect of designation is that the additional provisions set out in section 3 apply in relation to the designated scheme.
- 54 Subsection (1) provides the designation power. Clause 3 applies to the designated scheme as it has effect from time to time.
- 55 Subsection (2) imposes duties on gas suppliers in relation to applying to join the designated scheme, and once joined to remain in and comply with the scheme (unless they leave in accordance with the scheme). Government expects all current suppliers to have joined the scheme by the time this section comes into force. This provision ensures that any new suppliers who enter the market are required to apply to join the scheme.
- 56 Subsections (3) and (4) make similar provision for gas shippers. Not all shippers are required to enter the designated scheme in order for it to operate effectively, only those shippers who have contracts with gas suppliers who are party to the scheme and have relevant information to provide in order for the scheme to operate effectively. Therefore, subsection (3) requires a gas shipper to apply to join the designated scheme if it receives a written request to do so from another party to the scheme, and the scheme would not operate effectively if that gas shipper was not a party. The gas shipper must make the application as soon as reasonably practicable after receiving the request.

- 57 Subsection (4) requires a gas shipper, once joined, to remain in and comply with the designated scheme (unless it leaves in accordance with the scheme).
- 58 Subsection (5) requires the Secretary of State to publish the designated scheme as it has effect from time to time, so far as the Secretary of State considers it appropriate to do so.
- 59 Subsection (6) refers to paragraph 4(f) of Schedule 4B to the Gas Act 1986 (which is inserted by paragraph 1 of Schedule 7 to the Bill). Paragraph 4(f) of Schedule 4B to the Gas Act 1986 provides that the duties set out in subsections (2), (3) and (4) for gas suppliers and gas shippers to apply to, remain in and comply with the designated scheme are ‘relevant requirements’ and so enforceable by Ofgem (using its powers in Part 1 of the Gas Act 1986). The exception to this is where non-compliance with the terms of the scheme involves the amounts payable by or to the Secretary of State under the scheme (which is to be enforced under the terms of the Scheme Documents). Subsection (6) makes clear that such statutory enforcement does not prevent other remedies for non-compliance being pursued, for instance in the law of contract.
- 60 Subsection (7) provides that the Secretary of State is not liable in the law of contract for things done or omitted in the performance of the designated scheme, unless the liability relates to payment of an amount under the scheme.
- 61 Subsection (8) provides that a domestic gas price reduction scheme for Great Britain that was established before the power to establish such schemes under section 1(3) came into force may be designated under Clause 3. As noted above, a gas scheme was established and operational from 1 October 2022. This subsection makes clear that this scheme may be designated.
- 62 Subsection (9) makes it clear that no statutory enforcement is permitted in relation to non-compliance occurring before the scheme was designated.
- 63 Subsection (10) states that regulations under section 3 are subject to the negative procedure.

Clause 4: Interpretation of sections 1 to 3

- 64 Clause 4 provides interpretative provision in relation to sections 1 to 3. Subsections (4) and (9) ensure that domestic electricity or gas price reduction schemes in Great Britain only concern supply to domestic premises. Subsection (11) makes it clear that a reference to a charge includes a standing charge.

Reduction of domestic energy bills in Northern Ireland

Clause 5: Domestic energy price reduction schemes for Northern Ireland

- 65 This clause gives the Secretary of State power to establish the energy price guarantee schemes for electricity and for gas for Northern Ireland. These powers are similar to the clauses in the EPG GB scheme. For Northern Ireland, these powers need to be in place to deliver the scheme in Northern Ireland since the Secretary of State has no common law powers, for example to enter into contracts, in respect of transferred matters. Energy policy is a transferred matter in Northern Ireland.
- 66 Subsections (1) and (3) confer the powers to make the schemes. Subsections (2) and (4) define what the schemes are.
- 67 Subsection (5) provides that the Secretary of State may amend or revoke a scheme for instance the eligible tariffs and the discount rate. The EPG contracts (“Scheme Documents”) between the Secretary of State and energy suppliers will set out the circumstances in which the Secretary of State may make, modify and end the scheme.
- 68 Subsection (6) constrains this power, so that it must be used consistently with the terms outlined in the Scheme Document.

- 69 Subsection (7) provides the Secretary of State with the power to modify the Scheme Documents to prevent profiteering.

Clause 6: NI electricity scheme: supplementary provision

- 70 This clause imposes various duties and provides various powers in relation to designated electricity schemes in Northern Ireland.
- 71 Subsection (1) provides that the duties and powers apply to electricity price reduction schemes that are designated in regulations made by the Secretary of State.
- 72 Subsection (2) imposes duties on suppliers in relation to joining the scheme, remaining in it, and complying with its terms.
- 73 Subsection (3) enables the Utility Regulator to give directions to suppliers with regards to the Scheme.
- 74 Subsection (4) requires domestic electricity suppliers to comply with any direction under subsection (3).
- 75 Subsection (5) requires the Secretary of State to publish the scheme as it has effect from time to time.
- 76 Subsection (6) makes clear that statutory enforcement does not prevent other remedies for instance civil remedies). It is intended that the scheme document will provide that the Secretary of State and Scheme Administrator if applicable, are each entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach by the supplier of its obligations under the scheme document.
- 77 Subsection (7) provides that the Secretary of State is not liable in the law of contract for things done or omitted in the performance of the scheme unless the liability relates to payment of an amount under the scheme.
- 78 Subsection (8) states that regulations under this section are subject to the negative resolution procedure.

Clause 7: NI gas scheme: supplementary provision

- 79 This clause imposes various duties and provides various powers in relation to designated gas schemes in Northern Ireland.
- 80 Subsection (1) provides that the duties and powers will apply to gas price reduction schemes designated in regulations made by the Secretary of State.
- 81 Subsection (2) imposes duties on suppliers in relation to joining the scheme, remaining in it, and complying with its terms.
- 82 Subsection (3) provides for the Utility Regulator to give directions to suppliers with regards to the Scheme. Subsection (4) requires domestic gas suppliers to comply with any direction under subsection (3).
- 83 Subsection (5) requires the Secretary of State to publish the scheme as it has effect from time to time.
- 84 Subsection (6) provides that statutory enforcement does not prevent other remedies for instance civil remedies). It is intended that the scheme document will provides that the Secretary of State and Scheme Administrator if applicable, are each entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach by the Supplier of its obligations under the scheme document.

85 Subsection (7) provides that the Secretary of State is not liable in the law of contract for things done or omitted in the performance of the scheme unless the liability relates to payment of an amount under the scheme.

86 Subsection (8) states that regulations under this section are subject to negative resolution procedure.

Clause 8: Interpretation of sections 5 to 7

87 Subsections (4) and (7) provide powers to set out what is meant in terms of Northern Ireland domestic electricity and gas supply in regulations.

Reduction of non-domestic energy bills in England, Wales and Scotland

Clause 9: Reduced energy charges for non-domestic customers in Great Britain

88 Subsections (1) and (2) give the Secretary of State the power through regulations to reduce the amount non-domestic customers would otherwise be charged for electricity and gas supply and reimburse non-domestic energy suppliers in respect of reductions applied.

89 Subsection (3) gives the Secretary of State the power to make regulations to set out how charges are to be reduced, by an amount calculated by reference to the difference between the wholesale price paid for electricity or gas and a notional wholesale price for electricity or gas, if that notional price is lower than the wholesale price paid.

90 Subsection (4) gives the Secretary of State the power to make regulations to provide for what the wholesale price is to be or how it is to be calculated.

91 Subsection (5) provides that the Secretary of State may review the operation of regulations under this section.

92 Subsection (6) sets out that regulations under this section are subject to the affirmative procedure.

93 Subsection (7) sets out that Schedule 1 describes the kinds of matters which may be provided for by regulation under this section.

94 Subsection (8) sets out that Schedule 6 describes the time limits on the exercise of the powers conferred by this section.

Clause 10: Interpretation of section 9 and Schedule 1

95 This clause is self-explanatory.

Reduction of non-domestic energy bills in Northern Ireland

Clause 11: Reduced energy charges for non-domestic customers in Northern Ireland

96 Subsections (1) and (2) give the Secretary of State the power through regulations to reduce the amount Northern Ireland non-domestic customers would otherwise be charged for electricity or gas supply and reimburse Northern Ireland non-domestic energy suppliers in respect of reductions applied.

97 Subsection (3) gives the Secretary of State the power to make regulations to set out how charges are to be reduced, by an amount calculated by reference to the difference between the wholesale price paid (or treated as paid) for electricity or gas and a notional wholesale price for electricity or gas, if that notional price is lower than the price paid or treated as paid.

- 98 Subsection (4) gives the Secretary of State the power to make regulations to provide for the wholesale price paid to be the actual wholesale price paid (or treated as paid), and for that wholesale price to be specified in or under the regulations or determined in accordance with the regulations. Subsection (4)(b) provides for this notional wholesale price to be specified in or under the regulations or determined in accordance with the regulations.
- 99 Subsection (5) gives the Secretary of State power to review operation of regulations under this section.
- 100 Subsection (6) sets out that regulations under this section are subject to the affirmative procedure.
- 101 Subsection (7) sets out that Schedule 2 describes the kinds of matters which can be provided for by regulation under this section.
- 102 Subsection (8) sets out that Schedule 6 describes the time limits on the exercise of the powers conferred by this section.

Clause 12: Interpretation of section 11 and Schedule 2

- 103 This clause is self-explanatory. Subsections (4) and (7) provide powers to set out what is meant in terms of Northern Ireland non-domestic electricity and gas supply in regulations.

Support for meeting energy costs etc

Clause 13: Power of the Secretary of State to give support for meeting energy costs etc

- 104 This clause enables the Secretary of State to:
- a. provide support for meeting costs related to the use of energy;
 - b. enable or encourage the efficient use of energy;
 - c. provide support for meeting costs related to the supply of energy;
 - d. enable or encourage the supply of energy.
- 105 The Secretary of State can provide this support by providing financial assistance to support any person or taking steps directly (for example, to acquire energy or purchase storage capacity directly) and to cover any incidental costs incurred.
- 106 Subsection (2) provides that the Secretary of State may take other steps as appropriate in response to the energy crisis.¹²
- 107 The clause also provides that any steps taken under this clause on or after 1 January 2022 but before the Bill comes into force are authorised under the Bill.
- 108 Schedule 6 details the expiry of the powers.

Clause 14: Procedure and reporting in connection with section 13

- 109 Subsection (2) provides that financial expenditure by the Secretary of State under Clause 13(2) is subject to a financial cap set to £100 million for each individual project, unless expenditure in excess of that is agreed by the House of Commons.
- 110 The requirement to obtain House of Commons approval can be disapplied if the Secretary of State is satisfied that the additional spending required is urgent and that it is not reasonably

¹² "In response to the energy crisis" has been defined in Clause 28(1) as responding to a change in the price of energy which has occurred on or after 1 January 2022, or to a cause or effect of such a change.

practicable in such circumstances to obtain the approval of the House of Commons. The Secretary of State must then lay a statement before Parliament about the spending as soon as reasonably practicable.

111 Subsection (5) sets out a requirement for the Secretary of State to report on any spending under Clause 13 on a quarterly basis.

Clause 15: Role of other bodies in giving support for meeting energy costs etc

112 This clause will provide for a designated body to take action in support of a step taken by the Secretary of State under Clause 13(1), including the delivery of financial assistance for energy bills in Great Britain and Northern Ireland.

113 This clause provides for the appointment of designated bodies to act on the Secretary of State's behalf to receive and distribute monies, including undertaking necessary monitoring and evaluation and cost recovery steps. This clause allows the Secretary of State to make, by regulations, provisions in connection with designated bodies taking action.

114 A designated body for the purposes of this clause can be a local authority, a heat supplier, or any other statutory body so designated.

Reducing the price of electricity

Clause 16: Temporary requirement on electricity generators to make payments

115 Subsections (1) and (2) enable the Secretary of State to make regulations which impose a requirement on specified electricity generators (or classes of such generators) to make periodic payments to a payment administrator. The purpose of this power is to obtain funds from certain electricity generators so that:

- a. those funds can be paid to electricity suppliers in connection with reducing the costs of electricity to customers; or
- b. to meet expenditure incurred or to be incurred by the Secretary of State in reducing the cost of electricity to customers (under other schemes outlined in these Notes).

116 Subsection (3) sets out a non-exhaustive list of matters which may be included in regulations made under subsection (1). Those matters are:

- A method for calculating the payments. Subsection (4) sets out that payments must be calculated by reference to the quantity of electricity generated during the specified period by the relevant generating station with which the relevant electricity generator is concerned;
- The time at which payments should be made;
- A requirement for advance payment in respect of the liability to make periodic payments and about the balancing payments;
- The application of interest on late payments and penalties for late payments;
- The recovery by the payment administrator of payments, interest or penalties as a civil debt;
- The transfer of payments received by the payment administrator either to suppliers or into the Consolidated Fund;

- Requirements imposed on suppliers receiving payments from a payment administrator as to how and when customers should receive the benefit from suppliers;
- The retaining by the payment administrator of amounts received for the purpose of meeting expenditure incurred by the payment administrator in exercising functions under the regulations;
- Conferring functions in connection with the application, monitoring or enforcement of the regulations on the Secretary of State, a payment administrator, GEMA, the Northern Ireland Regulator or any other person;
- Conferring functions in connection with the application, monitoring or enforcement of the regulations on a person designated by the Secretary of State in accordance with the regulations;
- Conferring powers on any person to require information for the purpose of exercising their functions under the regulations;
- The calculation or determination of anything in accordance with the regulations;
- Provision in regulations for an appeal to be made against any calculation, determination, designation or other decision made under the regulations; and
- Dealing with the consequences of, or prohibiting or otherwise regulating, transactions or arrangements that undermine the effectiveness of the regulations.

117 Subsection (5) allows the Secretary of State to set out when an electricity generator is no longer required to make payments in relation to these regulations.

118 Subsection (6) sets out that these regulations may, as applicable, be enforceable by GEMA and the Northern Ireland Regulator, as if they were relevant requirements on a regulated person for purposes of section 25 of the Electricity Act 1989 and section 41A of the Energy (Northern Ireland) Order 2003, respectively.

119 Subsection (7) states that the first set of regulations made under these powers is subject to the affirmative procedure.

120 Subsection (8) states that any subsequent regulations are then subject to the negative procedure.

121 Subsection (9) states that Schedule 6 contains provisions regarding the time limits on the exercise of these powers.

122 Subsection (10) states the definitions of various terms used in this section.

Clause 17: Power to require information in connection with regulations under section 16

123 Subsection (1) gives the Secretary of State the power to direct an electricity generator to provide them with such specified information as they may reasonably require in connection with the making of regulations under Clause 16.

124 Subsection (2) states that any such direction must be in writing.

125 Subsection (3) states an electricity generator must comply with the direction, as far as reasonably practical, within the specified period, and in the specified form and manner.

126 Subsection (4) provides that a direction under this section is enforceable by the Secretary of State in civil proceedings.

127 Subsection (5) of this clause sets out what is meant by each of the terms in this clause.

Clause 18: Contracts for difference

128 Subsection (2) sets out amendments to the Energy Act 2013 in relation to the existing Contracts for Difference (CfD) regime. This includes at Section 6 extending the purpose of the CfD regulations to make clear that encouraging low carbon generation includes encouraging the continuation of, or an increase in, low carbon electricity generation at existing generating stations.

129 Subsection (3) amends Section 7 of the Energy Act 2013 to allow for the designation of a different Counterparty for any future CfD scheme used for this extended purpose.

130 Subsection (4) amends Section 17 of the Energy Act 2013 to provide a power for the Secretary of State to make regulations requiring that customers of an electricity supplier benefit, in accordance with those regulations, from payments made to the supplier by the CfD Counterparty.

131 Subsection (5) amends Section 19 of the Energy Act 2013 to allow regulations to: require an electricity supplier to provide the Secretary of State or others with information; for the Authority and the Northern Ireland Authority for Utility Regulation to require that they be provided with information by the CfD counterparty or electricity suppliers; and for the CfD Counterparty to require information to be provided by those Authorities.

Passing on the benefits of reductions and other support

Clause 19: Requirement to pass through energy price support to end users

132 This clause will provide the Secretary of State with a power, by regulations, to impose pass through requirements on persons who receive energy price support (defined in the clause as financial assistance provided by way of (a) a payment made to a person in connection with their energy costs, (b) a reduction in the amount to be paid by a person for energy, or by another mechanism to or in respect of a person under this Act or any scheme established under it, where the assistance is provided in response to the energy crisis).

133 Pass through requirements on intermediaries (PRI) will oblige the subjects of the regulations ("Intermediaries", who have received energy price support) to pass through the benefit obtained to classes of end users (who are the intended beneficiaries of the relevant schemes) in accordance with the terms of regulations. The clause enables regulations to provide that an end user may recover from an Intermediary an amount specified or determined in accordance with the regulations if they have not received it by a specified time.

134 In addition to requirements about how the scheme benefit should be passed through, regulations may oblige the Intermediary to provide information to end users to enable them to understand and enforce the PRI and may require Intermediaries to provide information to the Secretary of State for the purposes of monitoring, audit and keeping the PRI under review.

135 This clause will require all heat networks to pass through to consumers cost reductions which it has received through the Energy Bill Relief Scheme (or for heat networks in Northern Ireland, the Northern Ireland equivalent of the EBRIS).

136 It also provides for regulations to appoint an Alternative Dispute Resolution body which will handle complaints. The Energy Ombudsman is expected to be appointed to investigate complaints raised by consumers against their heat network if they consider their heat network has not complied with requirements under this clause.

The domestic energy tariff cap

Clause 20: Domestic gas and electricity tariff cap

137 This clause introduces Schedule 3 which makes modifications to the Domestic Gas and Electricity (Tariff Cap) Act 2018 to support the operation of the energy price guarantee in Great Britain.

Regulation of energy markets

Clause 21: Power of Secretary of State to modify energy licences etc

138 Clause 21 will enable the Secretary of State to modify an energy licence (including standard licence conditions) and associated documentation by issuing a Notice setting out the modification and its effect and specifying the date from which the modification will take effect. This power would enable the Secretary of State to modify licence conditions as necessary to respond to the current energy crisis and in connection with any of the schemes established under the Bill. For example, the Secretary of State could introduce a licence condition into Northern Ireland electricity suppliers' licences to facilitate delivery of schemes in Northern Ireland.

Clause 22: Power of Secretary of State to give directions

139 Clause 22 will enable the Secretary of State to issue Directions in response to the energy crisis to the Northern Ireland Regulator and persons who hold an energy licence. Any Directions issued can be varied and revoked by subsequent Directions. The power includes the ability for the Secretary of State to issue Directions, including but not limited to matters related to electricity supplier licence conditions, which includes the terms of delivery of relevant support schemes by parties in scope. When a Direction conflicts with a requirement under other legislation or instrument, subsection (5) requires the person who is being directed to disregard the requirement so that they can carry out the Direction.

Clause 23: Regulation of the Northern Ireland energy market

140 This clause notes that Schedule 4 contains provisions regarding regulation of the Northern Ireland energy market.

Final provisions

Clause 24: Concurrent exercise of powers by the Department for the Economy

141 This clause is self-explanatory.

Clause 25: Time limits on exercise of certain powers under this Act

142 This clause is self-explanatory.

Clause 26: Regulations

143 This clause provides that regulations made under this Bill are to be made by statutory instrument.

144 Subsection (2) provides that, where regulations are made under this Bill, those regulations may make different provision for different purposes or cases, and may also make incidental, supplementary, consequential, transitional, transitory or saving provision.

145 This clause makes further provision about the Parliamentary procedure associated with regulations.

Clause 27: Consequential provision etc

146 This clause confers on the Secretary of State regulation-making powers to make consequential amendments which arise from this Bill, or from regulations made under it; and to make appropriate provision in connection with a domestic energy price reduction scheme, or anything done or proposed to be done under, or given effect by, section 13 (power of the Secretary of State to give support for meeting energy costs etc), any other provision of this Bill and any regulations under this Bill.

147 This clause also gives the Secretary of State a regulation-making power to ensure provision can be made where schemes under the Act come to an end or where administration of a scheme is transferred from the Secretary of State to the Department for the Economy (or vice versa) to ensure the schemes can continue to be effectively delivered.

148 Regulations under this clause may amend provision made by primary legislation that was passed before this Bill is enacted or in the same session of Parliament as this Bill. The amendments that can be made include amendments to legislation in devolved areas.

Clause 28: Interpretation

149 This clause provides information on how terms which are used throughout the Bill should be interpreted. Separate interpretation provisions are found in other provisions of the Bill where those terms only appear in those provisions.

Clause 29: Application to the Crown

150 This clause provides that this Bill (once enacted) will bind the Crown.

Clause 30: Extent, commencement and short title

151 This clause sets out the extent of the Bill: Annex A provides further information. The clause also provides that the Bill comes into force on the day on which it is passed, apart from Clause 18 which will come into force two months after the day on which the Act is passed. It further confirms the short title by which the Bill (once enacted) may be cited.

Schedule 1 – Non-domestic relief regulations for Great Britain

152 Schedule 1 sets out the particular kinds of provision that may be made by regulations under Clause 9, including the application of GB non-domestic relief regulations, delegation of powers, powers and duties that may be imposed or conferred (including in relation to information), modification of contracts, enforcement, exclusion of liability, avoidance of abuse or unreasonable reliance on support schemes and provisions for disadvantaged customers.

Schedule 2 – Non-domestic relief regulations for Northern Ireland

153 Schedule 2 sets out the particular kinds of provision that may be made by regulations under Clause 11, including the application of Northern Ireland non-domestic relief regulations, delegation of powers, powers and duties that may be imposed or conferred (including in relation to information), modification of contracts, enforcement, exclusion of liability, avoidance of abuse or unreasonable reliance on support schemes and provisions for disadvantaged customers.

Schedule 3 – Domestic Gas and Electricity (Tariff Cap) Act 2018

154 Schedule 3 sets out the modifications to the Domestic Gas and Electricity (Tariff Cap) Act 2018 to support the operation of the Energy Price Guarantee. It sets out that the default tariff cap will cease to have effect upon notice given by the Secretary of State.

Schedule 4 – Regulation of the Northern Ireland energy market

155 This schedule disapplies existing consultation and standstill requirements set out in Article 14 of the Electricity (NI) Order 1992 and of the Gas (Northern Ireland) Order 1996 which usually have to be followed when the Utilities Regulator modifies licence conditions. These requirements are disapplied only in relation to a response during the energy crisis. If the Department for the Economy directs the Utilities Regulator to not exercise this power, the Utilities Regulator shall comply with that direction.

Schedule 5 – Powers and expiry of powers in respect of Northern Ireland

156 Paragraph 1 sets out which provisions in the Bill may also be exercised concurrently in respect of Northern Ireland by the Department for the Economy. Paragraph (2) sets out limitations on the exercise of some of those powers. Paragraph (4) provides that, when a power conferred by the Bill to make regulations is exercisable concurrently by the Department for the Economy, the provision made by the Department must be within the devolved competence of the Northern Ireland Assembly, as defined in that paragraph. The schedule makes further provision regarding the expiry of powers and relevant definitions.

Schedule 6 – Time limits on the exercise of certain powers under this Act

157 This Schedule provides for the expiry of the exercise of certain powers under the Bill and sets out when the expiry of each of those powers will occur. There is also provision in relation to the possibility of extending the time period for which the powers are available.

158 Differing provision is made for the expiry of powers in respect of the following:

- Domestic electricity price reduction schemes for Great Britain;
- Domestic gas price reduction schemes for Great Britain;
- Domestic electricity price reduction schemes for Northern Ireland;
- Domestic gas price reduction schemes for Northern Ireland;
- Reduced energy charges for non-domestic customers in Great Britain;
- Reduced energy charges for non-domestic customers in Northern Ireland;
- Power of the Secretary of State to give support for meeting costs etc;
- Temporary requirement on electricity generators to make payments.

Schedule 7 – Amendments of legislation

Part 1 – Acts of Parliament

159 This Part of the schedule sets out the amendments made by the Bill to the Gas Act 1986, the Electricity Act 1989, and the Utilities Act 2000.

Part 2 – Northern Ireland legislation

160 This Part sets out the amendments made by the Bill to the Energy (Northern Ireland) Order 2003 and the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007. In the view of the Government the proposed amendments are compatible with the Northern Ireland Protocol.

Commencement

161 Clause 30 makes provision about when the provisions of this Bill come into force.

Financial implications of the Bill

162 The Bill will facilitate the delivery of the Government's Energy Price Guarantee. The costs of the scheme will largely fall to the Exchequer the total costs will depend on the amount of energy used by households and the wholesale price of energy.

163 "Based on the 10-day average forward prices for gas and electricity to 12 September 2022, we estimate the cost of support for the UK scheme up to April 2023 to be £31bn (nominal undiscounted). This cost is particularly sensitive to prevailing future wholesale energy prices and demand (for example, from an unseasonably cold winter). The cost of providing the Northern Ireland scheme is estimated at £1 billion (nominal undiscounted, excluding VAT revenue impacts).

164 The Bill will facilitate the delivery of the Government's Domestic Alternative Fuel Payment. Households in the UK who use alternative fuels for heating will receive a one-off £100 support payment. The cost of this support is estimated to be £500 million.

165 The Bill will also facilitate the delivery of the Government's Energy Bill Relief Scheme in Great Britain and Northern Ireland. Based on the 10-day average forward prices for gas and electricity on 12 September 2022, the total cost of the schemes between October 2022 and March 2023 is estimated to be £29 billion (nominal undiscounted, excluding VAT revenue impact). As above this cost is sensitive to future wholesale energy prices and demand. There will in addition be costs incurred in relation to implementing this scheme.

166 The Bill enables the Non-Domestic Alternative Fuel Payment. Non-domestic off the gas-grid consumers in Great Britain and Northern Ireland will receive a one off lump sum payment (level to be confirmed). This could be provided either through consumers' electricity bills or through direct payment by a designated body (e.g., local authorities). The cost of this support is estimated to be £75-100 million depending on the level of payment and delivery route.

167 The Bill will enable the Government to implement the Northern Ireland Energy Bills Support Scheme. Under this scheme households in Northern Ireland will receive a discount of £400 on their energy bills. The cost of this scheme is currently estimated to be approximately £332 million based on estimates of eligible households in Northern Ireland.

168 The Bill will facilitate the delivery of the Government's Energy Bills Support Scheme Alternative Fund which is intended to provide £400 of support for household energy bills for households across the UK that do not receive the equivalent support through the main Energy Bills Support Scheme due to not having a domestic energy contract. The total cost of this fund is estimated to be £315-380 million including 5% new burdens costs for local authorities.

Parliamentary approval for financial costs or for charges imposed

169 The Bill enables both the creation of charges on the public purse and the raising of public revenue. The House of Commons passed Money and Ways and Means resolutions on 17 October 2022 to provide parliamentary approval for expenditure and revenue raising under the powers in the Bill.

Compatibility with the European Convention on Human Rights

170 The Government considers that the Bill is compatible with the European Convention on Human Rights (ECHR). Accordingly, Lord Callanan the Parliamentary Under Secretary of State at the Department for Business, Energy and Industrial Strategy has made a statement under section 19(1)(a) of the Human Rights Act 1998 to this effect. The ECHR rights which are considered to be relevant to the Bill are: Article 6 (the right to a fair trial, Article 1 of Protocol 1 ("A1P1") (right to property) and Article 8 (right to respect for private and family life, home and correspondence).

Environment Act 2021: Section 20

171 Lord Callanan, the Parliamentary Under Secretary of State at the Department for Business, Energy and Industrial Strategy is of the view that the Bill as brought from the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

Related documents

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

- Energy Bill Relief Scheme Guidance: <https://www.gov.uk/guidance/energy-bill-relief-scheme-help-for-businesses-and-other-non-domestic-customers>
- Energy Bill Relief Scheme Press Notice: <https://www.gov.uk/government/news/government-outlines-plans-to-help-cut-energy-bills-for-businesses>
- Energy Price Guarantee Press Notice: <https://www.gov.uk/government/news/government-announces-energy-price-guarantee-for-families-and-businesses-while-urgently-taking-action-to-reform-broken-energy-market>
- Energy Bill Support Guidance: <https://www.gov.uk/government/publications/energy-bills-support/energy-bills-support-factsheet-8-september-2022>

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clauses 1-4	Yes	Yes	No	Yes	No	No	No
Clauses 5-8	No	No	No	No	No	Yes	Yes
Clauses 9-10, Schedule 1	Yes	Yes	No	Yes	No	No	No
Clauses 11-12, schedule 2	No	No	No	No	No	Yes	Yes
Clauses 13-15	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 16-18	Yes	Yes	No	Yes	No	Yes	Yes
Clause 19	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 20, Schedule 3	Yes	Yes	No	Yes	No	No	No
Clause 21	Yes	Yes	No	Yes	No	Yes	Yes
Clause 22	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 23, Schedule 4	No	No	No	No	No	Yes	Yes
Clause 24, Schedule 5	No	No	No	No	No	Yes	No
Clause 25, Schedule 6	Yes	Yes	No	Yes	No	Yes	No
Clause 26	Yes	Yes	No	Yes	No	Yes	No
Clause 27, Schedule 7	Yes	Yes	No	Yes	No	Yes	No
Clause 28 - 30	Yes	Yes	No	Yes	No	Yes	No

ENERGY PRICES BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Energy Prices Bill as brought from the House of Commons on 18 October 2022 (Bill 59).

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