

# Energy Bill [HL]

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AMENDMENTS  
TO BE MOVED  
ON REPORT

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**Clause 67**

LORD CALLANAN

Clause 67, page 59, line 29, at end insert –

“(4A) Provision made by virtue of subsection (3)(d) for the imposition of a financial penalty must include provision for a right of appeal against the imposition of the penalty.”

***Member's explanatory statement***

*This amendment requires regulations under clause 67(3)(d) (functions of hydrogen levy administrator) that make provision for the imposition of financial penalties to include provision for a right of appeal.*

**Clause 86**

LORD CALLANAN

Clause 86, page 76, line 27, at end insert –

“(3A) Where regulations under section 85(1) provide for the imposition of a civil penalty, they must also provide for a right of appeal against the imposition of the penalty.”

***Member's explanatory statement***

*This amendment requires regulations under clause 85(1) (financing costs of decommissioning etc) that make provision for the imposition of civil penalties to include provision for a right of appeal.*

**Clause 108**

LORD CALLANAN

Clause 108, page 97, line 16, at end insert –

“(A1) Scheme regulations that, by virtue of section 106(3), provide that a person is liable to a financial penalty must also provide for a person to have a right of appeal to a court or tribunal against the imposition of the penalty.”

***Member's explanatory statement***

*This amendment requires regulations under clause 101(1) (low-carbon heat schemes) that make provision for the imposition of financial penalties to include provision for a right of appeal.*

LORD CALLANAN

Clause 108, page 97, line 19, leave out “civil”

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 97, line 16, which makes provision about appeals against the imposition of a financial penalty.*

LORD CALLANAN

Clause 108, page 97, line 19, after “imposed” insert “(other than financial penalties)”

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 97, line 19, which makes provision about appeals against the imposition of a financial penalty.*

LORD CALLANAN

Clause 108, page 97, line 22, leave out “The regulations” and insert “Scheme regulations that make provision by virtue of subsection (1)”

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 97, line 16.*

LORD CALLANAN

Clause 108, page 97, line 23, leave out “subsection (1)” and insert “that subsection”

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 97, line 16.*

**Clause 112**

LORD CALLANAN

Clause 112, page 100, line 26, leave out “may” and insert “must”

***Member's explanatory statement***

*This amendment requires regulations under clause 112 (regulations for the protection of consumers: hydrogen grid conversion trials) that make provision for the imposition of financial penalties to include provision for a right of appeal.*

**Clause 167**

LORD CALLANAN

Clause 167, page 139, line 34, leave out “negative” and insert “affirmative”

***Member's explanatory statement***

*This amendment makes regulations under clause 167 (which contains a power to amend certain definitions relating to heat networks) subject to the affirmative procedure.*

**Clause 171**

LORD CALLANAN

Clause 171, page 141, line 38, leave out subsection (1) and insert –

“(1) The first regulations to be made by the Secretary of State under section 170 are subject to the affirmative procedure.”

***Member's explanatory statement***

*This amendment clarifies that the first regulations made by the Secretary of State under clause 170 are subject to the affirmative procedure.*

LORD CALLANAN

Clause 171, page 142, line 1, leave out from beginning to “subject” in line 2 and insert “The following regulations made by the Secretary of State are also”

***Member's explanatory statement***

*This amendment clarifies that the list in clause 171(2) of cases in which the affirmative procedure applies relates to regulations made by the Secretary of State (as opposed to regulations made by the Department for the Economy in Northern Ireland).*

LORD CALLANAN

Clause 171, page 142, line 3, leave out paragraph (a)

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 141, line 38.*

LORD CALLANAN

Clause 171, page 142, line 8, at end insert –

- “(iv) any provision of Part 8 or 9 of Schedule 16, or
- (v) paragraph 56 of Schedule 16;”

***Member's explanatory statement***

*This amendment adds regulations relating to step-in arrangements, special administration regimes and powers of entry to the list of the kinds of regulations under clause 170 that are subject to the affirmative procedure.*

LORD CALLANAN

Clause 171, page 142, line 12, at end insert –

- “(2A) Any other regulations made by the Secretary of State under section 170 are subject to the negative procedure.”

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 141, line 38.*

LORD CALLANAN

Clause 171, page 142, line 16, leave out subsection (4) and insert –

- “(4) The first regulations to be made by the Department under section 170 may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.”

***Member's explanatory statement***

*This amendment is part of a rearrangement of procedural provision in clause 171 relating to regulations made by the Department for the Economy in Northern Ireland, aimed at mirroring the corresponding provision in that clause relating to regulations made by the Secretary of State.*

LORD CALLANAN

Clause 171, page 142, line 24, leave out paragraph (a)

***Member's explanatory statement***

*See the explanatory statement relating to the amendment in the name of Lord Callanan at page 142, line 16.*

LORD CALLANAN

Clause 171, page 142, line 27, at end insert –

- “(iii) any provision of Part 8 or 9 of Schedule 16, or

(iv) paragraph 56 of Schedule 16;”

***Member's explanatory statement***

*This amendment makes provision in respect of regulations made by the Department for the Economy in Northern Ireland corresponding to that made by the amendment in the name of Lord Callanan at page 142, line 8 in respect of regulations made by the Secretary of State.*

LORD CALLANAN

Clause 171, page 142, line 31, at end insert –

“(6) Any other regulations made by the Department under section 170 are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.).”

***Member's explanatory statement***

*See the explanatory statement relating to the amendment in the name of Lord Callanan at page 142, line 16.*

**Clause 173**

LORD CALLANAN

Clause 173, page 143, line 35, leave out “negative” and insert “affirmative”

***Member's explanatory statement***

*This amendment provides that regulations under clause 173(1) (which confers power to designate the Gas and Electricity Markets Authority as the licensing authority for the purposes of the Heat Networks (Scotland) Act 2021) are subject to the affirmative procedure.*

**Clause 174**

LORD CALLANAN

Clause 174, page 144, line 19, at end insert –

“(4) Regulations under this section are subject to the affirmative procedure.”

***Member's explanatory statement***

*This amendment provides that regulations under clause 174 (which confers power to make provision about the enforcement of conditions of heat network licences issued in Scotland) are subject to the affirmative procedure.*

**Clause 180**

LORD CALLANAN

Clause 180, page 147, line 39, leave out subsections (3) and (4)

***Member's explanatory statement***

*This amendment omits provision that would have enabled heat network zones regulations to require a person to comply with the provisions of a non-legislative document.*

**Clause 185**

LORD CALLANAN

Clause 185, page 153, line 10, leave out paragraph (c)

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 153, line 14.*

LORD CALLANAN

Clause 185, page 153, line 14, at end insert –

“(1A) Zones regulations made by virtue of section 181(2)(c) or 184(2)(c) must include provision for a right of appeal against the imposition of a penalty.”

***Member's explanatory statement***

*This amendment requires zones regulations made by virtue of clause 181 (requests for information) or clause 184 (enforcement of heat network zone requirements) that make provision for the imposition of a penalty, to include provision for a right of appeal.*

**Clause 194**

LORD CALLANAN

Clause 194, page 161, line 15, at end insert –

- “(5A) Energy smart regulations that are not within subsection (5) are subject to the made affirmative procedure if they –
- (a) are the first energy smart regulations to make provision about a particular description of energy smart appliance,
  - (b) make provision by virtue of section 189(4)(b) imposing requirements of a kind not previously imposed by energy smart regulations,
  - (c) make provision by virtue of section 190(1)(a) or (b) by reference or in relation to a published document, standard or list (as the case may be) in respect of which such provision has not previously been made,
  - (d) confer new powers for the enforcement of energy smart regulations, or
  - (e) make provision by virtue of section 192(2) for the imposition of new civil penalties.
- (5B) A revised version of a published document, standard or list is to be disregarded for the purposes of subsection (5A)(c) if provision has previously been made in

respect of the document, standard or list by virtue of section 190(1)(a) or (b) (as the case may be).”

***Member's explanatory statement***

*This amendment provides that energy smart regulations that are not the first energy smart regulations but that include certain kinds of provision for the first time are subject to the made affirmative procedure.*

**Clause 212**

LORD CALLANAN

Clause 212, page 177, line 13, at end insert –

“(A1) ESOS regulations that provide for the imposition of a financial penalty must also provide for a right of appeal to a court or tribunal against the imposition of the penalty.”

***Member's explanatory statement***

*This amendment requires ESOS regulations that provide for the imposition of financial penalties to include provision for a right of appeal.*

LORD CALLANAN

Clause 212, page 177, line 17, after “imposed” insert “(other than financial penalties)”

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 177, line 13, which makes provision about appeals against the imposition of a financial penalty.*

LORD CALLANAN

Clause 212, page 177, line 19, leave out “The regulations” and insert “Regulations that make provision by virtue of subsection (1)”

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 177, line 13, which makes provision about appeals against the imposition of a financial penalty.*

LORD CALLANAN

Clause 212, page 177, line 20, at end insert “made by virtue of that subsection”

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 177, line 13.*

## LORD CALLANAN

Clause 212, page 177, line 21, after “subsection” insert “(A1) or”

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 177, line 13.*

**Clause 246**

## LORD CALLANAN

Clause 246, page 208, line 16, at end insert –

“(8A) Where regulations under subsection (1) or (5) provide for the imposition of a civil penalty, they must also include provision for a right of appeal against the imposition of the penalty.”

***Member's explanatory statement***

*This amendment requires regulations under clause 246 (arrangements for responding to marine oil pollution) that provide for the imposition of civil penalties to include provision for a right of appeal.*

**Clause 247**

## LORD CALLANAN

Clause 247, page 210, line 7, at end insert –

“(8A) Where regulations under this section provide for the imposition of a civil penalty, they must also include provision for a right of appeal against the imposition of the penalty.”

***Member's explanatory statement***

*This amendment requires regulations under clause 247 (habitats: reducing effects of offshore oil or gas activities etc) that provide for the imposition of civil penalties to include provision for a right of appeal.*

## LORD CALLANAN

Clause 247, page 210, line 8, leave out subsections (9) and (10) and insert –

“(9) Regulations under this section are subject to the affirmative procedure.”

***Member's explanatory statement***

*This amendment provides that any regulations under clause 247 (habitats: reducing effects of offshore oil or gas activities etc) are subject to the affirmative procedure.*



**Clause 248**

LORD CALLANAN

Clause 248, page 210, line 22, leave out “Charging schemes” and insert “Charges in connection with exercise of functions under Part 4”

***Member's explanatory statement***

*See the explanatory statement for the amendment in Lord Callanan's name at page 210, line 23.*

LORD CALLANAN

Clause 248, page 210, line 23, leave out “make a scheme providing” and insert “by regulations made by statutory instrument provide”

***Member's explanatory statement***

*This amendment provides for charges in connection with the carrying out of functions under Part 4 of the Petroleum Act 1998 to be imposed by regulations, rather than by an administrative scheme.*

LORD CALLANAN

Clause 248, page 210, line 27, leave out “A scheme” and insert “Regulations”

***Member's explanatory statement***

*This amendment is consequential on the amendment in Lord Callanan's name at page 210, line 23.*

LORD CALLANAN

Clause 248, page 210, line 29, leave out “scheme” and insert “regulations”

***Member's explanatory statement***

*This amendment is consequential on the amendment in Lord Callanan's name at page 210, line 23.*

LORD CALLANAN

Clause 248, page 210, line 31, leave out “scheme” and insert “regulations”

***Member's explanatory statement***

*This amendment is consequential on the amendment in Lord Callanan's name at page 210, line 23.*

LORD CALLANAN

Clause 248, page 210, line 32, leave out “A scheme” and insert “Regulations”

**Member's explanatory statement**

*This amendment is consequential on the amendment in Lord Callanan's name at page 210, line 23.*

LORD CALLANAN

Clause 248, page 210, line 34, leave out "A scheme" and insert "Regulations"

**Member's explanatory statement**

*This amendment is consequential on the amendment in Lord Callanan's name at page 210, line 23.*

LORD CALLANAN

Clause 248, page 211, line 3, leave out "A scheme" and insert "Regulations"

**Member's explanatory statement**

*This amendment is consequential on the amendment in Lord Callanan's name at page 210, line 23.*

LORD CALLANAN

Clause 248, page 211, line 7, leave out "a scheme" and insert "regulations"

**Member's explanatory statement**

*This amendment is consequential on the amendment in Lord Callanan's name at page 210, line 23.*

LORD CALLANAN

Clause 248, page 211, line 10, leave out "scheme" and insert "regulations"

**Member's explanatory statement**

*This amendment is consequential on the amendment in Lord Callanan's name at page 210, line 23.*

LORD CALLANAN

Clause 248, page 211, line 11, leave out "a scheme" and insert "regulations"

**Member's explanatory statement**

*This amendment is consequential on the amendment in Lord Callanan's name at page 210, line 23.*

## LORD CALLANAN

Clause 248, page 211, line 12, at end insert –

“(8A) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

***Member's explanatory statement***

*This amendment provides for a statutory instrument containing regulations under new section 38C of the Petroleum Act 1998 (inserted by clause 248) to be subject to the negative procedure.*

## LORD CALLANAN

Clause 248, page 211, leave out lines 13 to 21

***Member's explanatory statement***

*This amendment is consequential on the amendment in Lord Callanan's name at page 210, line 23.*

## LORD CALLANAN

Clause 248, page 211, line 23, at end insert –

“(za) in paragraph (a), for the words from “the reference” to “Scottish Parliament” substitute “sections 38C(8A) and 39(6) of the 1998 Act are to be read as if each of those sections imposed a requirement that regulations under the section concerned are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010)”;

***Member's explanatory statement***

*This amendment ensures that where the Scottish Ministers make regulations under new section 38C of the Petroleum Act 1998 (inserted by clause 248), as applied in relation to carbon storage installations by section 30 of the Energy Act 2008, the regulations are subject to negative procedure in the Scottish Parliament.*

## LORD CALLANAN

Clause 248, page 211, line 24, leave out paragraphs (a) and (b)

***Member's explanatory statement***

*This amendment removes amendments to section 30(2) of the Energy Act 2008 that are no longer thought to be needed.*

## LORD CALLANAN

Clause 248, page 211, line 34, leave out “a scheme” and insert “regulations”

***Member's explanatory statement***

*This amendment is consequential on the amendment in Lord Callanan's name at page 210, line 23.*

**Clause 266**

LORD CALLANAN

Clause 266, page 230, line 18, at end insert –

- “(4A) Where regulations under this Act are subject to the made affirmative procedure, the statutory instrument containing them must be laid before Parliament after being made.
- (4B) Regulations under this Act contained in a statutory instrument laid before Parliament under subsection (4A) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (4C) In calculating the period of 28 days, no account is to be taken of any whole days that fall within a period during which –
- (a) Parliament is dissolved or prorogued, or
  - (b) either House of Parliament is adjourned for more than four days.
- (4D) If regulations cease to have effect as a result of subsection (4B), that does not –
- (a) affect the validity of anything previously done under the regulations, or
  - (b) prevent the making of new regulations.”

***Member's explanatory statement***

*This amendment makes provision about the “made affirmative” procedure for the purposes of the amendment in the name of Lord Callanan at page 161, line 15.*

LORD CALLANAN

Clause 266, page 230, line 21, at end insert “or the made affirmative procedure”

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 230, line 18.*

LORD CALLANAN

Clause 266, page 230, line 21, at end insert –

- “(5A) Any provision that may be included in regulations under this Act subject to the made affirmative procedure may be made by regulations subject to the affirmative procedure.”

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 230, line 18.*

**Clause 267**

LORD CALLANAN

Clause 267, page 230, line 27, at end insert “and “the made affirmative procedure” is to be construed in accordance with section 266(4A)”

***Member's explanatory statement***

*See the amendment in the name of Lord Callanan at page 230, line 18.*

**Schedule 13**

LORD CALLANAN

Schedule 13, page 297, line 16, at end insert –

- “(7) Where by virtue of subsection (6)(c) tender regulations provide for the imposition of a financial penalty, they must also include provision for a right of appeal against the imposition of the penalty.”

***Member's explanatory statement***

*This amendment requires regulations under section 6CA of the Electricity Act 1989 (tender regulations: power to require information) (inserted by Schedule 13) that provide for the imposition of civil penalties to include provision for a right of appeal.*

**Schedule 16**

LORD CALLANAN

Schedule 16, page 340, line 28, leave out paragraph (c)

***Member's explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Callanan at page 341, line 7.*

LORD CALLANAN

Schedule 16, page 341, line 7, at end insert –

- “(2A) Where regulations make provision by virtue of paragraph 37(2)(c) for the imposition of a penalty on a relevant person, the regulations –
- (a) must also include provision enabling the relevant person to challenge the penalty in legal proceedings;

- (b) may, in particular, specify the grounds on which and the time within which a penalty may be challenged and the remedies that may be given.”

***Member's explanatory statement***

*This amendment requires regulations made by virtue of paragraph 37(2)(c) of Schedule 16 (heat networks regulation: methods of enforcement) that provide for the imposition of a penalty to include provision for challenging the penalty in legal proceedings.*



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*7 March 2023*

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PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS