

# ENERGY BILL [HL]

## EXPLANATORY NOTES ON COMMONS AMENDMENTS

### What these notes do

These Explanatory Notes relate to the Commons Amendments to the Energy Bill as brought from the House of Commons on 6 September 2023 (HL Bill 168).

- 1 These Explanatory Notes have been prepared by the Department for Energy Security and Net Zero in order to assist the reader of the Bill and the Commons amendments, and to help inform debate on the Commons amendments. They do not form part of the Bill and have not been endorsed by Parliament.
- 2 These Explanatory Notes, like the Commons amendments themselves, refer to Bill 295, the Bill as first printed for the Commons.
- 3 These Explanatory Notes need to be read in conjunction with the Commons amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the Commons amendments.
- 4 Commons Amendments 1 to 338 were tabled in the name of the Minister for Nuclear and Networks, the Secretary of State, Rt Hon Grant Shapps MP or the Secretary of State, Claire Coutinho MP.

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# Commentary on Commons Amendments

## Part 1: Licensing of Carbon Dioxide Transport and Storage

### Commons Amendments to Clause 1: Principal objectives and general duties of the Secretary of State and economic regulator

#### Commons Amendment 1

- 5 Commons amendment 1 requires the economic regulator to have regard to the interim targets set out in section 2 of the Climate Change (Scotland) Act 2009 in carrying out functions under Part 1 of the Bill, in addition to the net zero emissions target in section A1(1) of the Climate Change (Scotland) Act 2009.

### Commons Amendments to Clause 2: Prohibition on unlicensed activities

#### Commons Amendment 2

- 6 Commons amendment 2 makes it clear that the amendments referred to in subsection (7)(a), to the primary legislation under powers in clause 2, include revocations as well as repeals.

#### Commons Amendment 3

- 7 Commons amendment 3 provides that the Secretary of State may not make regulations relying on subsection (7)(a) that amend the specified devolved legislation without the consent of the relevant devolved authorities.

### Commons Amendments to Clause 6: Revocation or withdrawal of exemptions

#### Commons Amendment 4

- 8 Commons amendment 4 provides that the Secretary of State must consider any representations duly made in respect of proposals to revoke regulations regarding exemptions from the requirement to hold a carbon dioxide transport and storage licence.

### Commons Amendments to Clause 8: Power to create licence types

#### Commons Amendment 5

- 9 Commons amendment 5 makes it clear that the amendments referred to in subsection (2)(a), to the primary legislation under powers in clause 8, include revocations as well as repeals.

#### Commons Amendment 6

- 10 Commons amendment 6 provides that the Secretary of State must consult relevant devolved authorities before making regulations regarding different licence types. The Secretary of State must allow a period of at least 28 days for representations to be made and must consider any representations made.

### Commons Amendments to Clause 9: Procedure for licence applications

## Commons Amendments 7, 8 and 9

- 11 Commons amendment 7 establishes a minimum statutory time period of 28 days for consultation with relevant devolved authorities in relation to regulations made under the powers of clause 9. Commons amendment 8 requires the economic regulator to notify the relevant devolved authorities where it proposes to grant a licence authorizing activities that are within devolved competence. Commons amendment 9 sets out the definition of appropriate devolved authority.

## Commons Amendments to Clause 10: Competitive tenders for licences

### Commons Amendments 10 and 11

- 12 Commons amendments 10 and 11 provide that the Secretary of State must allow a period of at least 28 days for representations to be made by the economic regulator and relevant devolved authorities in respect of proposals to make regulations regarding competitive tenders for licences, and must consider any representations duly made.

## Commons Amendments to Clause 13: Modification of conditions of licences

### Commons Amendments 12 and 13

- 13 Commons amendments 12 and 13 require the economic regulator to give notice to any relevant devolved authorities where the proposed licence modifications are within devolved competence.

## Commons Amendments to Clause 19: Consenting to transfer

### Commons Amendments 14 and 15

- 14 Commons amendments 14 and 15 require that the economic regulator notify relevant devolved authorities before giving consent to the transfer of a licence which authorises activities that are within devolved competence.

## Commons Amendments to Clause 39: Forward work programmes

### Commons Amendment 16

- 15 Commons amendment 16 requires that the economic regulator draw its draft forward work programmes to the attention of the devolved administrations.

## Part 2: Carbon Dioxide Capture, Storage etc and Hydrogen Production

## Commons Amendments to Clause 56: Interpretation

### Commons Amendment 17

- 16 Amendment 17, alongside consequential amendments, substitutes new definitions for existing definition of terms used in Chapter 1 to distinguish a carbon dioxide transport and storage counterparty and revenue support contract from a hydrogen transport and storage counterparty and revenue support contract. There will be separate counterparties and revenue

support contracts for hydrogen transport and for hydrogen storage. This amendment is consequential to Commons amendments 51 and 53.

### Commons Amendment 18

17 Amendment 18 removes from clause 56(1) the definition of “electricity supplier” and is consequential on Commons amendment 74.

### Commons Amendment 19

18 Amendment 19 is consequential to Commons amendments 64 and 69.

### Commons Amendment 20

19 Amendment 20 extends the definition and meaning of terms used in Chapter 1. It adds ‘eligible hydrogen transport provider’ and ‘eligible hydrogen storage provider’. This amendment is consequential to Commons amendments 51 and 53.

### Commons Amendment 21

20 Amendment 21 is consequential to Commons amendments 56 and 59.

### Commons Amendment 22

21 Amendment 22 changes the defined term of “gas shipper” in clause 56(1) to “GB gas shipper”.

### Commons Amendment 23

22 Amendment 23 removes from clause 56(1) the definition of “gas supplier” and is consequential on Commons amendment 74.

### Commons Amendment 24

23 Amendment 24 extends the meanings and definitions of terms used in Chapter 1. It adds definitions associated with a ‘counterparty’, ‘provider’ and a ‘revenue support contract’ for both hydrogen transport and hydrogen storage. This amendment is consequential to Commons amendments 51 and 53.

### Commons Amendment 25

24 Amendment 25 inserts a new definition of “Northern Ireland gas shipper” in clause 56(1) for the purposes of Commons amendment 74.

### Commons Amendment 26

25 Amendment 26 is consequential to Commons amendment 17.

## Commons Amendments to Clause 57: Revenue support contracts

### Commons Amendment 27

26 Amendment 27 is consequential to Commons amendment 17.

### Commons Amendment 28

27 Amendment 28 extends the meaning of ‘revenue support contract’ in Chapter 1. It adds ‘hydrogen transport revenue support contract’ and ‘hydrogen storage revenue support contract’ to the definition of ‘revenue support contract’. This amendment is consequential on Commons amendments 51 and 53.

## Commons Amendment 29

- 28 Amendment 29 provides for regulations made under the specified powers for hydrogen transport and storage to be subject to the affirmative procedure. This amendment is consequential to Commons amendments 51 and 53.

## Commons Amendments 30 and 31

- 29 Amendments 30 and 31 are consequential to amendment 55.

## Commons Amendments 32 and 33

- 30 Amendments 32 and 33 are consequential to amendment 63.

## Commons Amendments to Clause 58: Duties of revenue support counterparty

### Commons Amendment 34

- 31 Amendment 34 is consequential to Commons amendment 17.

### Commons Amendment 35

- 32 Amendment 35 extends subsection (5) to include hydrogen transport and hydrogen storage counterparties. The subsection requires revenue support regulations to include such provisions as the Secretary of State considers necessary to ensure that a revenue support counterparty can meet its liabilities under a revenue support contract.

### Commons Amendments 36, 37 and 38

- 33 Amendments 36 and 38 are consequential on Commons amendment 17 and amendment 37 is consequential on Commons amendment 35.

### Commons Amendment 39

- 34 Amendment 39 extends the meaning of 'revenue support counterparty' in Chapter 1. It adds a hydrogen transport and hydrogen storage counterparty to the definition of 'revenue support counterparty'. This amendment is consequential on Commons amendments 51 and 53.

## Commons Amendments to Clause 59: Designation of transport and storage counterparty

### Commons Amendments 40 to 49

- 35 Amendments 40 to 49 are consequential to Commons amendment 17.

## Commons Amendments to Clause 60: Direction to offer to contract

### Commons Amendment 50

- 36 Amendment 50 is consequential to Commons amendment 17.

## Commons Amendments After Clause 60 (New Clauses): Hydrogen Transport and Storage

### Commons Amendment 51

- 37 This clause, alongside consequential amendments, makes provision for the Secretary of State to designate a person by notice, with the consent of that person, to be a counterparty to hydrogen transport revenue support contracts. A hydrogen transport counterparty will enter into and manage contracts with eligible hydrogen transport providers.
- 38 Subsection (5) provides that more than one hydrogen transport counterparty may be designated at one time.
- 39 Subsection (6) deals with the continuity of hydrogen transport counterparties. If the designation of a hydrogen transport counterparty were to lapse the Secretary of State must as soon as reasonably practicable make a transfer scheme under clause 82 transferring contracts to a new hydrogen transport counterparty. This is designed to ensure that where a hydrogen transport counterparty ceases to be designated, the contracts are transferred to a new hydrogen transport counterparty.
- 40 Subsection (7) defines “hydrogen transport provider”. Subsection (8) and subsection (9) provide further clarification on this definition, including territorial scope and transporting of compounds.

### Commons Amendment 52

- 41 This clause confers a power on the Secretary of State to issue a direction to a hydrogen transport counterparty to offer to contract with eligible hydrogen transport providers in accordance with provisions set out in regulations. Subsection (4) requires that revenue support regulations determine what persons are eligible.
- 42 The amendment also makes clear that revenue support regulations determining the meaning of “eligible” in relation to a hydrogen transport provider may make provision by reference to standards or other published documents external to the regulations, as the documents have effect from time to time.

### Commons Amendment 53

- 43 This clause, alongside consequential amendments, makes provision for the Secretary of State to designate a person by notice, with the consent of that person, to be a counterparty to hydrogen storage revenue support contracts. A hydrogen storage counterparty will enter into and manage contracts with eligible hydrogen storage providers.
- 44 Subsection (5) provides that more than one hydrogen storage counterparty may be designated at one time.
- 45 Subsection (6) deals with the continuity of hydrogen storage counterparties. If the designation of a hydrogen storage counterparty were to lapse the Secretary of State must as soon as reasonably practicable make a transfer scheme under clause 82 transferring contracts to a new hydrogen storage counterparty. This is designed to ensure that where a hydrogen storage counterparty ceases to be designated, the contracts are transferred to a new hydrogen storage counterparty.
- 46 Subsection (7) defines “hydrogen storage provider”. Subsection (8) and subsection (9) provide further clarification on this definition, including territorial scope and storage of compounds.

## Commons Amendment 54

- 47 This clause confers a power on the Secretary of State to issue a direction to a hydrogen storage counterparty to offer to contract with eligible hydrogen storage providers in accordance with provisions set out in regulations. Subsection (4) requires that revenue support regulations determine what persons are eligible.
- 48 Amendment 54 also makes clear that revenue support regulations determining the meaning of “eligible” in relation to a hydrogen storage provider may make provision by reference to standards or other published documents external to the regulations, as the documents have effect from time to time.

## Commons Amendments to Clause 61: Designation of a hydrogen production counterparty

### Commons Amendments 55 and 56

- 49 Amendment 55 ensures that the definition of a “hydrogen production revenue support contract” is not reliant on the continuous and ongoing compliance of a hydrogen producer with eligibility requirements set out in regulations after a contract has been entered into. Instead, the intention is for this to be dealt with as a private law contract matter once a contract is entered into.
- 50 This is achieved by changing the definition of “hydrogen production revenue support contract” in clause 61(2) so that it is only defined in relation to whether a hydrogen production counterparty is party to it and whether the contract was entered into by a hydrogen production counterparty in pursuance of a direction given to it under clause 62(1) or a notification given to it under clause 71(1).
- 51 Amendment 56 is consequential to amendment 55.

### Commons Amendment 57

- 52 Amendment 57 clarifies that hydrogen production revenue support and counterparty provisions apply in respect of production activities in the United Kingdom. As drafted, the territorial application of these provisions was not expressly stated.
- 53 Amendment 57 therefore makes it clear that a “low carbon hydrogen producer” must carry out its production activities in the UK, in line with government intentions for the Hydrogen Production Business Model.

### Commons Amendment 58

- 54 Amendment 58 is related to amendment 57 and ensures that hydrogen production revenue support and counterparty provisions apply in respect of low carbon hydrogen production activities carried out in the territorial sea and in a Renewable Energy Zone offshore, as well as onshore. As drafted, these provisions do not expressly cover hydrogen production activities carried out in offshore areas.

## Commons Amendments to Clause 62: Direction to offer to contract

### Commons Amendment 59

- 55 Amendment 59 is consequential to Commons amendment 55.

## Commons Amendment 60

- 56 Amendment 60 makes clear that revenue support regulations determining the meaning of “eligible” in relation to a low carbon hydrogen producer may make provision by reference to standards or other published documents external to the regulations, as the documents have effect from time to time.

## Commons Amendments to Clause 63: Designation of carbon capture counterparty

### Commons Amendments 61 and 62

- 57 Amendment 62 makes clear that the Secretary of State is also able to designate a counterparty in respect of one or more descriptions of carbon capture revenue support contract. Amendment 61 is consequential to amendment 62.

### Commons Amendments 63 and 64

- 58 Amendment 63 ensures that the definition of a “carbon capture revenue support contract” is not reliant on the continuous and ongoing compliance of a carbon capture entity with eligibility requirements set out in regulations after a contract has been entered into. Instead, the intention is for this to be dealt with as a private law contract matter once a contract is entered into.
- 59 This is achieved by changing the definition of “carbon capture revenue support contract” in clause 63(2) so that it is only defined in relation to whether a carbon capture counterparty is party to it and whether the contract was entered into by a carbon capture counterparty in pursuance of a direction given to it under clause 64(1) or a notification given to it under clause 71(2).
- 60 Amendment 64 is consequential to amendment 63.

### Commons Amendments 65 and 67

- 61 Amendment 65 removes limitations on the Secretary of State’s ability to designate more than one counterparty for carbon capture revenue support contracts, and supplements amendment 67 by confirming that there may be, at the same time, more than one counterparty for a particular description of carbon capture revenue support contract.
- 62 Amendment 67 widens the definition of “carbon capture entity” to bring within it capturing carbon dioxide from the atmosphere or from sea water.

### Commons Amendment 66

- 63 Amendment 66 clarifies that carbon capture revenue support and counterparty provisions apply in respect of carbon capture activities in the United Kingdom. As drafted, the territorial application of these provisions was not clearly stated.
- 64 Amendment 66 therefore makes it clear that a “carbon capture entity” must carry out carbon capture activities in the UK, in line with government intentions to support the deployment of Carbon Capture, Usage and Storage (CCUS) in the UK.

### Commons Amendment 68

- 65 Amendment 68 is related to Commons amendment 66 and ensures carbon capture revenue support and counterparty provisions apply in respect of carbon capture activities carried out in the territorial sea and in a Gas Importation and Storage Zone offshore, as well as onshore.



As drafted, these provisions do not expressly cover carbon capture activities carried out in offshore areas.

## **Commons Amendments to Clause 64: Direction to offer to contract**

### **Commons Amendment 69**

66 Amendment 69 is consequential to Commons amendment 63.

### **Commons Amendment 70**

67 Amendment 70 makes clear that revenue support regulations determining the meaning of “eligible” in relation to a carbon capture entity may make provision by reference to standards or other published documents external to the regulations, as the documents have effect from time to time.

## **Commons Amendments to Clause 66: Obligations of relevant market participants**

### **Commons Amendment 71**

68 Amendment 71 makes changes to clause 66 to enable revenue support regulations to make provision requiring relevant market participants to pay a hydrogen levy administrator so that a hydrogen production counterparty can make payments under hydrogen production revenue support contracts and to cover other related costs. Relevant market participants will be specified in regulations, but no description of relevant market participants may include persons other than those specified in subsection (8). This amendment overturned an amendment made in the House of Lords at Report Stage.

### **Commons Amendment 72**

69 Amendment 72 extends clause 66 to include hydrogen transport and storage revenue support contracts. This enables regulations to require levy payments to be made by relevant market participants to pay a levy administrator for the purpose of enabling payments under the hydrogen transport or hydrogen storage revenue support contracts through a counterparty.

### **Commons Amendment 73**

70 Amendment 73 is consequential to Commons amendment 17.

### **Commons Amendment 74**

71 Commons Amendment 74 makes further amendments to clause 66 and is similar in intent to an amendment made at Lords Report stage, but avoids the drafting issues associated with that amendment. Amendment 74 limits the persons who can be brought within the definition of a “relevant market participant” to GB gas shippers and Northern Ireland gas shippers (as defined in clause 56(1)), thereby removing GB gas suppliers and Northern Ireland and GB electricity suppliers from the scope of the levy.

## **Commons Amendments to Clause 67: Payments to relevant market participants**

### **Commons Amendments 75 to 83**

72 Amendment 83 extends clause 67 to include hydrogen transport and storage revenue support contracts. This enables regulations to make provision about payments which must be made



from a levy administrator or a counterparty to a levied market participant. Amendment 83 is consequential to Commons amendment 72.

73 Amendments 75 to 82 are consequential to Commons amendment 83.

## **Commons Amendments to Clause 69: Power to appoint allocation bodies**

### **Commons Amendment 84**

74 Amendment 84 corrects a drafting error in paragraph (a) of subsection (5) of clause 69 which incorrectly refers to “designation” rather than “appointment”.

## **Commons Amendments to Clause 72: Allocation of contracts**

### **Commons Amendment 85**

75 Amendment 85 makes clear that allocation frameworks may make provision by reference to standards or other published documents, as the documents have effect from time to time.

## **Commons Amendments to Clause 77: Further provisions about designations**

### **Commons Amendment 86**

76 Amendment 86 extends subsection (1) to include designations of hydrogen transport and hydrogen storage counterparties. This enables the Secretary of State to revoke the designation of a person as a revenue support counterparty. It also allows a designation to cease to have effect if a revenue support counterparty elects to withdraw its consent and gives at least three months’ prior written notice to the Secretary of State of that withdrawal. This amendment is consequential on Commons amendments 51 and 53.

### **Commons Amendment 87**

77 Amendment 87 extends subsection (2) to include hydrogen transport and hydrogen storage counterparties. This subsection deals with the continuity of counterparties. This amendment is consequential on Commons amendments 51 and 53.

### **Commons Amendment 88**

78 Amendment 88 extends subsection (3) to include hydrogen transport and hydrogen storage counterparty designation notices. This subsection deals with publication of notices. This amendment is consequential on Commons amendments 51 and 53.

### **Commons Amendment 89**

79 Amendment 89 is consequential to Commons amendment 17.

### **Commons Amendment 90**

80 Amendment 90 expands subsection (4) to include hydrogen transport and hydrogen storage counterparties. This subsection deals with the continuity of counterparties.

## **Commons Amendments to Clause 79: Information and advice**

### **Commons Amendment 91**

81 Amendment 91 is consequential on Commons amendments 18, 22 and 23.

## **Commons Amendments to Clause 80: Enforcement**

### **Commons Amendments 92 to 94**

82 Amendments 92 to 94 are consequential on Commons amendment 74.

## **Commons Amendments to Clause 81: Consultation**

### **Commons Amendment 95**

83 Amendment 95 amends subsection (1) to require that when consulting the specified persons before making revenue support regulations, a period of not less than 28 days must be specified for the purposes of new subsection (1B) added by Commons amendment 96.

### **Commons Amendment 96**

84 Amendment 96 adds a new subsection (1B), which sets out that the Secretary of State must consider any representations that are duly made within the specified time period and not withdrawn.

### **Commons Amendment 97**

85 Amendment 97 adds a new subsection (1C) to require that before making regulations under section 69(1) (power to appoint allocation bodies) the Secretary of State must consult the relevant Ministers from the devolved administrations if the regulations contain provision that would be within devolved legislative competence.

### **Commons Amendment 98**

86 Amendment 98 amends subsection (2), which sets out the requirement to consult such persons as the Secretary of State considers appropriate before publishing standard terms under clause 70, to also require consultation with Ministers from the devolved administrations if the standard terms contain provision that would be within devolved legislative competence. It also requires the consultation to be a period of not less than 28 days. This amendment also adds a new subsection (2B) which requires the Secretary of State to consider representations.

## **Commons Amendments to Clause 85: Modifications of licenses etc for purposes related to levy obligations**

### **Commons Amendment 99**

87 Amendment 99 removes subsection (1) from clause 85 and therefore removes the ability for the Secretary of State to modify the conditions of electricity transmission licences in Great Britain or related documents, such as industry codes, for the purpose of facilitating or supporting the enforcement and administration of the hydrogen levy. This amendment is consequential on Commons amendment 74.

### **Commons Amendment 100**

88 Amendment 100 removes subsection (3) from clause 85 and therefore removes the ability for the Secretary of State to modify the conditions of electricity transmission, electricity distribution and SEM operator licences in Northern Ireland or related documents, such as industry codes, for the purpose of facilitating or supporting the enforcement and administration of the hydrogen levy. This amendment is consequential on Commons amendment 74.

## Commons Amendment 101

89 Amendment 101 is consequential on Commons amendments 99 and 100.

## Commons Amendment 102

90 Amendment 102 is consequential on Commons amendments 99 and 100.

## Commons Amendments 103 and 104

91 Amendments 103 and 104 are consequential on Commons amendment 74.

## Commons Amendment 105

92 Amendment 105 is consequential on Commons amendment 104.

## Commons Amendment 106

93 Amendment 106 is consequential on Commons amendment 105.

## Commons Amendment 107

94 Amendment 107 is consequential on Commons amendment 99.

## Commons Amendment 108

95 Amendment 108 is consequential on Commons amendment 100.

## **Commons Amendments to Clause 87: Sections 85 and 86: supplementary**

## Commons Amendments 109 and 110

96 Amendments 109 and 110 are consequential on Commons amendments 99 and 100.

## Commons Amendment 111

97 Amendment 111 updates clause 87 to take into account the passage of the Energy Prices Act 2022.

## Commons Amendment 112

98 Amendment 112 is consequential on Commons amendment 99.

## **Commons Amendments to Clause 88: Financing of costs of decommissioning etc**

## Commons Amendment 113

99 Amendment 113 makes clear that the definition of “carbon storage installation” in section 30 of the Energy Act 2008 applies to clause 92.

## **Commons Amendments After Clause 89 (New Clause)**

## Commons Amendment 114

100 Amendment 114 inserts a new clause in the Bill. This clause requires the Secretary of State to consult with relevant devolved authorities where regulations made under clause 92 contain provision that is within devolved competence.

## **Commons Amendments to Clause 90: Provisions relating to Part 4 of the Petroleum Act 1998**

### **Commons Amendments 115 and 116**

101 Amendment 115 is consequential on amendment 116. Amendment 116 clarifies the drafting of the definition of “carbon storage installation”, so that it is more consistent with the drafting of other provisions in section 30 of the Energy Act 2008; in particular, it clarifies the relationship between subsections (5) and (6) of section 30 of the Energy Act 2008.

## **Commons Amendments to Clause 96: Review**

### **Commons Amendments 117 and 118**

102 Commons amendments 117 and 118 amend clause 96 to provide that when the Secretary of State proposes, following a review of a CCUS Strategy and Policy Statement, to leave the Strategy and Policy Statement as is, or to withdraw its designation, they must allow at least 28 days for representations to be made by the economic regulator and the devolved administrations, and must consider any representations made during this period.

## **Commons Amendments After Clause 101 (New Clauses): Carbon Storage Information and Samples**

### **Commons Amendment 119**

103 Amendment 119 inserts a new clause into the Bill. This clause provides key definitions for the purposes of the following chapter, to ensure an effective understanding of all carbon storage information and samples provisions.

### **Commons Amendment 120**

104 Amendment 120 inserts a new clause into the Bill. This clause provides power for the Secretary of State to make regulations regarding the retention of information and samples by carbon storage licensees.

105 Before making regulations, the Secretary of State is required to consult the relevant carbon storage licensing authorities (established in section 18 of the Energy Act 2008) in respect of any areas where such regulations would apply.

### **Commons Amendment 121**

106 Amendment 121 inserts a new clause into the Bill. This clause provides requirements for the preparation and agreement of information and samples plans for the purposes of dealing with what will happen to carbon storage information and samples following changes in responsible persons in respect of different license events, for example where there has been a change of control of a company.

### **Commons Amendment 122**

107 Amendment 122 inserts a new clause into the Bill. This clause provides further details regarding information and samples plans requirements under amendment 121.

### **Commons Amendment 123**

108 Amendment 123 inserts a new clause into the Bill. This clause places requirements upon carbon storage licensees and exploration operators to appoint an individual as an Information and Samples Coordinator.

109 An Information and Samples Coordinator is responsible for monitoring the compliance of the licensee and exploration operator with any obligations imposed by or under amendments 121 and 122.

### Commons Amendment 124

110 Amendment 124 inserts a new clause into the Bill. This clause establishes powers for the Oil and Gas Authority (OGA) to require their carbon storage licensees (and certain other persons) to report any carbon storage information or samples they currently hold (or that are held on their behalf) to the OGA, in support of their regulatory functions.

### Commons Amendment 125

111 Amendment 125 inserts a new clause into the Bill. This clause places a prohibition upon the disclosure of any information and samples by the OGA that were obtained under reporting requirements in amendment 124 or under the power to obtain information for the purposes of an investigation into whether a person has failed to comply with one of the sanctionable requirements under this new Chapter.

112 This clause also introduces a new Schedule – Commons amendment 313 – which provides exceptions to the prohibition on disclosure.

### Commons Amendment 126

113 Amendment 126 inserts a new clause into the Bill. This clause provides power for the Secretary of State to require information and samples held by or on behalf of the OGA to be provided to the Secretary of State for certain specific purposes.

114 This clause reflects the equivalent powers established for the petroleum industry under section 11 of the Energy Act 2016.

### Commons Amendment 127

115 Amendment 127 inserts a new clause into the Bill. This clause provides powers for the OGA to give sanction notices to persons who have failed to comply with the carbon storage information and samples requirements imposed by or under this new Chapter.

### Commons Amendment 128

116 Amendment 128 inserts a new clause into the Bill. This clause sets out what an enforcement notice (which can be given by the OGA under powers in Commons amendment 127) is and what information it should contain.

### Commons Amendment 129

117 Amendment 129 inserts a new clause into the Bill. This clause provides for financial penalty notices (which can be given by the OGA under powers in Commons amendment 127). It sets out what such a notice should contain, sets out some procedural requirements, provides for a statutory maximum penalty and requires the OGA to issue guidance concerning how it will determine the amount of the financial penalty.

118 Any financial penalties are to be paid into the Consolidated Fund.

119 Subsection 10 establishes power for the Secretary of State, by regulations, to amend the financial penalty to a maximum value of £5 million.

## Commons Amendment 130

120 Commons amendment 130 inserts a new clause into the Bill. This clause provides for revocation notices, which can be given by the OGA under powers in Commons amendment 127.

121 This clause enables the OGA to terminate a carbon storage license or permit, for the failure to comply with a requirement imposed by or under this new Chapter.

## Commons Amendment 131

122 Amendment 131 inserts a new clause into the Bill. This clause provides for operator removal notices.

123 This clause places a requirement upon the licensee to remove an exploration operator for their failure to comply with a requirement imposed by or under this new Chapter.

## Commons Amendment 132

124 Amendment 132 inserts a new clause into the Bill. This clause establishes a duty requiring the OGA to give a sanction warning notice where it proposes to give a sanction notice under powers in Commons amendment 127.

## Commons Amendment 133

125 Amendment 133 inserts a new clause into the Bill. This clause provides for the OGA to publish details of any sanction notices given under powers in Commons amendment 127.

126 The details allowed to be published exclude those considered to be commercially sensitive, not in the public interest, or otherwise inappropriate to publish.

## Commons Amendment 134

127 Amendment 134 inserts a new clause into the Bill. This clause enables the OGA, in certain circumstances, to give more than one sanction notice in respect of the same failure to comply, under powers in amendment 127.

## Commons Amendment 135

128 Amendment 135 inserts a new clause into the Bill. This clause enables the OGA to withdraw any sanction notice they have given under Commons amendment 127, and requires the OGA to notify the relevant persons to whom the notice was given that the notice has been withdrawn.

## Commons Amendment 136

129 Amendment 136 inserts a new clause into the Bill. This clause provides powers for the OGA to require specified documents and information to support an investigation into the decision to give a sanction notice, or on what terms one should be given, under powers in Commons amendment 127.

## Commons Amendment 137

130 Amendment 137 inserts a new clause into the Bill. This clause introduces a new Schedule – Commons Amendment 314 – with a purpose of ensuring the right of appeal for carbon storage license holders against any decisions made by the OGA in relation to the enforcement of sanctionable requirements under this Chapter.

131 Any appeals would be made to the first-tier tribunal.

## Commons Amendment 138

132 Amendment 138 inserts a new clause into the Bill. This clause establishes requirements for the OGA to determine and publish the procedure it proposes to follow in their decision-making to give sanction notices under Commons amendment 127.

## Commons Amendment 139

133 Amendment 139 inserts a new clause into the Bill. This clause provides further definitions to aid the interpretation of provisions in this Chapter, cross-referencing the relevant existing legislation, where appropriate.

## Commons Amendments to Clause 102: Access to infrastructure

### Commons Amendment 140

134 Amendment 140 amends clause 102 to require that when the Secretary of State gives notice of proposals for regulations regarding access to infrastructure rights, they must specify a time period within which representations may be made, which must not be less than 28 days, and must consider any representations made by the statutory consultees during this period.

## Commons Amendments to Clause 103: Financial assistance

### Commons Amendment 141

135 This amendment removes the words “out of money provided by Parliament” from Clause 103 as the Government no longer considers them to be necessary.

### Commons Amendments 142 to 146

136 Amendments 142 and 143 clarify that the Secretary of State is authorised to provide financial assistance for either or both of transport and storage of carbon dioxide. Amendment 144 clarifies that the Secretary of State is authorised to provide financial assistance for carbon dioxide capture facilities which operate (or are to operate) in association with facilities for either or both of transport and storage of carbon dioxide.

137 Amendments 145 and 146 have a similar effect for the transportation and storage of hydrogen.

### Commons Amendments 147 and 148

138 Amendments 147 and 148 amend clause 103 to ensure consistency, where appropriate, with other provisions in the Bill that confer powers to provide financial assistance.

## Commons Amendments After Clause 103 (New Clauses): Licensing of Hydrogen Pipeline Projects

### Commons Amendment 149

139 This new clause defines key terms that are used in this new Part.

### Commons Amendment 150

140 This new clause provides the Secretary of State with the power to designate, by notice, a consenting person in relation to a hydrogen pipeline project. The Secretary of State may only exercise the power to designate if the conditions set out in subsection (2) are met.

141 An individual designation can only relate to one hydrogen pipeline project, but a person who is designated in relation to one project can be designated separately in relation to another.



142 Designation triggers the ability for the Secretary of State to use other powers in this new Part to implement a Regulated Asset Base model (RAB) in respect of the designated person and project, such as powers to grant, extend and/or modify a gas transporter licence.

### Commons Amendment 151

143 This new clause requires the Secretary of State to publish a statement setting out the procedure that is expected to be followed in determining whether to exercise the power to designate a person in relation to a hydrogen pipeline project, as well as setting out how the Secretary of State expects to determine whether the conditions to designation under subsection (2) of Commons amendment 150 are met.

144 This clause also sets out various procedural requirements that apply in respect of the exercise of the Secretary of State's power to designate, including requirements as to the content and publication of a designation notice.

### Commons Amendment 152

145 This new clause makes provision about the circumstances in which a person's designation in relation to a hydrogen pipeline project may be revoked, and about the procedure for revocation. A designation may be revoked if: either of the conditions under subsection (2) of Commons amendment 150 cease to be met in relation to the project, the Secretary of State determines that a condition to which the designation is subject has not been met, or the person consents to the designation being revoked.

146 Subsection (4) makes clear that the revocation of a designation does not affect anything done by the Secretary of State in relation to the person's gas transporter licence under or by virtue of this new Part while the person was designated in relation to the project.

### Commons Amendment 153

147 This new clause allows the Secretary of State, in specified circumstances, to exercise certain powers conferred on the Gas and Electricity Markets Authority ("GEMA" or "the Authority") by section 7 of the Gas Act 1986 to grant, extend or restrict gas transporter licences. Those circumstances include, for example, where the licences are to be granted to, or are or were held by, designated persons and authorise the conveyance of hydrogen through pipes for the purposes of the person's designated project.

148 This new clause is intended, alongside other clauses, to provide the Secretary of State with powers to implement, via gas transporter licence conditions, a RAB in respect of hydrogen pipeline projects.

149 Subsection (6) requires the Secretary of State to have regard to specified matters when granting or extending a gas transporter licence by virtue of this new clause.

150 Subsection (8) makes clear that a gas transporter licence granted, extended or restricted by the Secretary of State by virtue of this new clause has effect for all purposes as if it had been granted, extended or restricted by the GEMA.

### Commons Amendment 154

151 This new clause confers a power for the Secretary of State to make regulations about the making, consideration and determination of relevant applications for the grant, extension or restriction of a gas transporter licence. Subsection (2) defines a "relevant application".

152 Subsection (5) requires the Secretary of State to consult the GEMA before making regulations under this new clause.



153 Subsection (6) provides that so far as regulations under this new clause apply to an application for the grant, extension or restriction of a gas transporter licence, section 7B(1) to (2A) of the Gas Act 1986 does not apply to that application.

### Commons Amendment 155

154 Subsection (1) of this new clause gives the Secretary of State power to modify the conditions or terms of a designated person's gas transporter licence, as well as standard conditions of gas transporter licences and certain documents or agreements such as industry codes. Subsection (2) provides that such modifications can only be made for the purpose of facilitating or supporting the financing of the design, construction, commissioning or operation of a hydrogen pipeline project (or of hydrogen pipeline projects generally), or promoting value for money in connection with a hydrogen pipeline project (or in connection with hydrogen pipeline projects generally).

155 Subsection (3) requires the Secretary of State to have regard to specified matters when modifying the conditions or terms of a designated person's gas transporter licence under subsection (1). Subsection (4) gives the Secretary of State power to modify the conditions or terms of a gas transporter licence held by a person who is or was a designated person where modification is in connection with the revocation of the person's designation in relation to a hydrogen pipeline project.

### Commons Amendment 156

156 This new clause makes provision about the scope of the modifications that the Secretary of State may make under Commons Amendment 155.

### Commons Amendment 157

157 This new clause sets out various procedural requirements relating to modifications under Commons Amendment 155.

158 Subsection (1) requires the Secretary of State, before making a modification, to consult the holder of any licence being modified, the GEMA and such other persons as the Secretary of State considers appropriate.

159 Subsection (3) requires the Secretary of State to publish details of any modifications as soon as reasonably practicable after they are made.

### Commons Amendment 158

160 This new clause confers power on the Secretary of State to make regulations about the provision and publication of information and advice in connection with the carrying out of functions under or by virtue of this new Part.

161 Subsection (3) provides that restrictions on disclosure of information under section 105(1) of the Utilities Act 2000 do not apply to a disclosure required by virtue of this new clause.

### Commons Amendment 159

162 Subsection (2) of this new clause provides that conditions described in subsection (3) may be included in a gas transporter licence so far as it authorises a person to convey hydrogen through pipes in connection with the carrying on of a hydrogen pipeline project (a "relevant licence" as defined by subsection (1)). These conditions include mandating that a licence holder comply with a direction requiring it to share with a "candidate" information in relation to the activities authorised by the licence.

163 The candidate can be an applicant, or potential applicant, for a relevant licence, or a person considering whether to apply for financial support for activities relating to the production, transportation, storage or use of hydrogen (for example, the hydrogen production business model).

164 Subsection (4) sets out limitations to modifications of the conditions of relevant licences under section 8(3) of the Gas Act 1986. In granting a relevant licence, the Secretary of State or the GEMA (as appropriate) may only modify conditions of that licence under section 8(3) of the Gas Act 1986 if they are of the opinion that the licence holder would not be unduly disadvantaged in competing with other holders of relevant licences, and no other holder of a relevant licence would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence to be modified).

### Commons Amendment 160

165 Subsection (1) of this new clause requires the GEMA, in exercising functions in relation to relevant gas transporter licences, to comply with general or particular directions given to it by the Secretary of State for the purpose of promoting value for money in connection with a hydrogen pipeline project (or in connection with hydrogen pipeline projects generally).

166 Subsection (2) defines a “relevant gas transporter licence” as a gas transporter licence, held by a designated person, that authorises the conveyance of hydrogen through pipes in connection with the person’s designated project.

### Commons Amendment 161

167 This new clause enables the Secretary of State, by regulations, to repeal any of the preceding provisions of this new Part. For example, when government intervention is considered to be no longer required in the allocation and implementation of a RAB in respect of hydrogen pipeline projects.

168 Subsection (2) provides that if any of the provisions remain in force on 31 December 2040 and each five-year anniversary of that date (a “relevant date”), the Secretary of State is required to consider whether it is appropriate to repeal that provision and, if satisfied that it is not appropriate to do so, to publish a statement explaining why not. Such statement must be published no later than 3 months after the relevant date.

## Commons Amendments to Clause 112: Scheme Regulations: procedure etc

### Commons Amendments 162 and 163

169 These amendments establish a set of requirements for the consultation that the Secretary of State must carry out with the relevant devolved administrations before making regulations for a Low-Carbon Heat Scheme which apply in Scotland, Wales or Northern Ireland.

170 This includes a minimum period for representations to be made by the devolved administrations of not less than 28 days before regulations are made and a requirement that the Secretary of State must consider such representations.

## Commons Amendment After Clause 115 (New Clause): Hydrogen Pipeline Projects and the Gas Act 1986

### Commons Amendment 164

- 171 Subsection (1) of this new clause gives the Secretary of State the power to make regulations that provide for any provision of the Gas Act 1986 not to apply or to apply with modifications, in relation to the production, transportation, storage or use of hydrogen. Subsection (2) provides that this power may be exercised by amending the Gas Act 1986.
- 172 Subsection (3) provides that this power may only be exercised for the purpose of facilitating or promoting the production, transportation, storage or use of hydrogen.
- 173 Subsection (4) requires the Secretary of State, before exercising this power, to consult the GEMA and such other persons as the Secretary of State considers appropriate.

## Commons Amendments After Clause 117 (New Clauses)

### Commons Amendment 165

- 174 This new clause requires the government to carry out a public consultation about how to design and implement a revenue certainty scheme for sustainable aviation fuel producers. The clause requires that the consultation is launched within six months of Royal Assent and that the Secretary of State lay a report on progress within 18 months.

### Commons Amendment 166

- 175 This new clause enables the Secretary of State to make regulations imposing on off-gas-grid heating fuel suppliers an obligation in respect of renewable liquid heating fuel that corresponds to the renewable transport fuel obligation (RTFO) provided for in section 124(2) of the Energy Act 2004. The RTFO obligates specified suppliers of relevant transport fuels to produce evidence showing that within a specified period a specified amount of renewable transport fuel was supplied within the UK.
- 176 Accordingly, the obligation provided for under this section would require specified off-gas-grid heating fuel suppliers to produce evidence that within a specified period a specified amount of renewable liquid heating fuel was supplied within the UK (the “Renewable Liquid Heating Fuel Obligation” or “RLHFO”). The section would allow the required amount of fuel to be supplied either by the obligated supplier directly, or (wholly or partly) by other suppliers.
- 177 Subsection (2) provides that the regulations can make provision connected with the RLHFO which corresponds to provision made by, or that may be made under, Chapter 5 of Part 2 of the Energy Act 2004 (which provides for the RTFO). This enables the regulations made under this section to provide for operational arrangements relating to the administration and enforcement of the RLHFO.
- 178 Subsection (3) provides that the Secretary of State must consult such persons as the Secretary of State considers appropriate before making regulations under this section.
- 179 Subsection (4) states that the power to make regulations under this section is subject to the affirmative resolution procedure.

## **Part 4: Independent System Operator and Planner**

### **Commons Amendments to Clause 121: Duty to promote particular objectives**

#### **Commons Amendment 167**

180 This amendment limits the width of the duty of the Independent System Operator and Planner (ISOP) to promote the efficiency and economy objective. The duty will apply, broadly speaking, to activities in respect of which the ISOP's predecessors have functions, and to activities in respect of which the ISOP has or acquires functions; but not to activities described in clause 121(5)(c).

#### **Commons Amendment 168**

181 This amendment is consequential on Commons amendment 167 and relocates the provision currently at clause 121(5)(d) to earlier in the definition of "relevant activity".

#### **Commons Amendment 169**

182 This amendment is consequential on Commons amendment 168.

#### **Commons Amendment 170**

183 This amendment deletes the provision currently at clause 121(5)(d) to achieve the aim of Commons amendment 168.

### **Commons Amendments to Clause 124: Licensing of electricity system operator activity**

#### **Commons Amendment 171**

184 Amendment 171 removes subsection (11) from clause 124 and therefore removes the ability for the Secretary of State to modify the conditions of the ISOP's electricity system operator licence or related documents, such as industry codes, for the purpose of facilitating or supporting the enforcement and administration of the hydrogen levy. This amendment is consequential on amendment 74.

### **Commons Amendments to clause 134: Financial Assistance for the ISOP**

#### **Commons Amendment 172**

185 This is one of a number of amendments designed to ensure that provisions about financial assistance throughout the Bill are drafted in a consistent way.

### **Commons Amendments to clause 138: Interpretation of Part 4**

#### **Commons Amendment 173**

186 This amendment clarifies that references in Part 4 to the ISOP's functions include any functions that are exercisable by the person for the time being designated as the ISOP, regardless of the capacity in which such functions are exercisable by the person.

## **Commons Amendments to clause 139: Regulations under Part 4**

### **Commons Amendment 174**

187 This amendment ensures that regulations made under Part 4 by the Treasury are not subject to the default negative procedure that applies to other regulations under Part 4. As these are financial regulations the intention is that these are laid before the House of Commons only and approved by the House of Commons alone (see amendment 318 to Schedule 7).

## **Part 6: Market Reform and Consumer Protection**

### **Commons Amendment After Clause 159 (New Clause): Principal objectives of Secretary of State and GEMA**

#### **Commons Amendment 175**

188 This amendment is intended to replace clause 271. It modifies the Secretary of State's and Ofgem's "principal objectives" under the Electricity Act 1989 and Gas Act 1986 so that they refer to the net zero and carbon budgeting targets in the Climate Change Act 2008. The new clause is intended to appear at the start of Part 6 of the Bill.

189 The amendment would require Ofgem to consider, as part of the everyday decisions they make as the regulator, how their decision may assist the Secretary of State in meeting the UK's net zero targets and carbon budgets when carrying out their duties under Section 4AA of the Gas Act 1986 and Section 3A of the Electricity Act 1989.

### **Commons Amendments to Clause 160: Competitive tenders for electricity projects**

#### **Commons Amendment 176**

190 The amendment is consequential on amendment 110 which enables the coming into force of paragraph 4 of Schedule 11 at Royal Assent.

### **Commons Amendments After Clause 160 (New Clauses): Support payments for energy-intensive industries**

#### **Commons Amendment 177**

191 This clause enables the Secretary of State to make regulations to provide electricity support payments to energy-intensive industries for the purpose of alleviating the impact of electricity costs and allows for persons to be appointed to administer the scheme. Subsection (2) defines "energy-intensive activity".

192 The regulations will make provision for determining eligibility and the corresponding application process for the proposed Network Charging Compensation Scheme, the intention of which is to reduce the network charging costs paid by energy-intensive industries. This includes calculation of compensation payments to beneficiaries, information sharing, enforcement of obligations and dispute resolution.

#### **Commons Amendment 178**

193 This clause enables the Secretary of State to require payments from electricity suppliers for the purpose of funding the electricity support payments in Commons amendment 177 and allows for the appointment of an administrator for the levy.

194 The regulations will make provision for, among other things, determining the levy rate to be applied to individual suppliers and establish the process by which the levy is paid by suppliers. It will also make provision for the sharing of information between suppliers and the administrator of the scheme, or the Secretary of State, to aid the levy obligation or to confirm accordance with their obligations.

195 The regulations will make provision for managing disputes or defaults on levy obligations from suppliers.

## **Commons Amendments to Clause 170: Smart meters: extension of time for exercise of powers**

### **Commons Amendment 179**

196 This amendment pauses the 40-day laying period required (before amendments to industry codes and licences that have been laid in Parliament come into effect) during any gap between the expiry and subsequent revival of the Secretary of State's powers under section 88 of the Energy Act 2008.

197 It also makes clear that consultation on code or licence modifications can be carried out either before or after the powers are revived.

## **Part 7: Heat Networks**

### **Commons Amendments to Clause 170**

#### **Commons Amendments 180, 181, 182, 183 and 185**

198 Amendment 180 clarifies the primary legislation that may be amended or repealed by regulations under clause 174, where the regulations make consequential, incidental, supplementary, transitional or saving provision. So far as Acts of the Scottish Parliament are concerned, only the Heat Networks (Scotland) Act 2021 may be amended (but not repealed) by such regulations.

199 Amendment 181 removes the requirement for the Secretary of State to consult the Scottish Ministers before making regulations that contain provision within devolved legislative competence. The requirement is superseded by the more detailed provisions set out in 185.

200 Amendment 182 is consequential on Commons amendment 181.

201 Amendments 183 and 185 are consequential on amendment 180. Amendment 183 removes the definition of "primary legislation", which is no longer needed as a result of amendment 180.

### **Commons Amendment After Clause 174 (New Clause): Regulations made by Secretary of State: Consultation with devolved authorities**

#### **Commons amendment 184**

202 This new clause, to be inserted after clause 174 requires the Secretary of State to carry out a consultation process with the Scottish Ministers and the Welsh Ministers so far as regulations under clause 216 make provision within Scottish or Welsh legislative competence.

## **Commons Amendment to Clause 178**

### **Commons Amendment 186**

203 This amendment provides that regulations to make provision about monitoring compliance with, and enforcing, conditions of heat networks licences issued under section 5(5) of the Heat Networks (Scotland) Act 2021 may not be made if no regulations have been made designating the GEMA as the licensing authority for the purposes of that Act.

## **Part 9: Energy Performance of Premises**

### **Commons Amendments to Clause 204: National Warmer Homes and Business Action Plan**

#### **Commons Amendment 187**

204 This amendment removes clause 204 from the Bill, which was inserted at Lords Report. This clause imposes a duty on the Secretary of State to publish a plan within six months of the Act being passed setting out how the Government intends to deliver on achieving decarbonisation in homes and businesses – specifically to support low carbon heat, energy efficient domestic and non-domestic properties and higher standards for new builds; and, in developing the Warmer Homes and Businesses Action Plan, to consult the Climate Change Committee and its sub-committee on adaptation.

### **Commons Amendments to Clauses 205, 207 and 208: Energy Performance of Premises**

#### **Commons Amendments 188 to 199**

205 These amendments will give the Scottish Government and Department of Finance in Northern Ireland the power to make changes to their existing Energy Performance of Buildings (EPB) regimes to ensure that they are fit for purpose and reflect the UK's ambitions on climate change, including to support achieving the UK's target for net-zero greenhouse gas emissions by 2050.

206 The existing EPB regimes derive from EU law. These amendments will provide a replacement power, enabling the Scottish Government and Department of Finance in Northern Ireland to amend, revoke or replace their existing EPB regimes to ensure they continue to meet UK-specific objectives. The power includes the power to make regulations requiring the assessment, certification and publication of information relating to the energy efficiency and energy usage of premises. These amendments will provide the same power for the Scottish Government and Department of Finance in Northern Ireland to amend their Energy Performance of Buildings Regulations as is provided to the Secretary of State to amend the Energy Performance of Buildings Regulations in England and Wales.



## **Part 10: Energy Savings Opportunity Schemes**

### **Commons Amendments to Clause 218: ESOS regulations: procedures etc**

#### **Commons Amendments 200 and 201**

207 These amendments add further requirements to clause 218 in relation to the duty of the Secretary of State to consult the devolved authorities before making regulations that contain provisions that are within devolved competence. They include the giving of notice of the intention to make energy savings opportunity scheme (ESOS) regulations and allowing a minimum of 28 days for representations to be made.

208 The new requirements would apply only in respect of regulations made in the next phase of ESOS. In the current phase of ESOS, which began on 6 December 2019, the consultation duty is not changed.

#### **Commons Amendments 202 to 204**

209 The amendments will remove from Clause 218 a power enabling ESOS regulations to make consequential provision to amend or repeal primary legislation. They include consequential amendments to remove references to the power being subject to affirmative resolution procedure, and to remove the definition of primary legislation in relation to the power.

## **Part 11: Core Fuel Sector Resilience**

### **Commons Amendments to Clause 242: Financial assistance for resilience and continuity purposes**

#### **Commons Amendment 205**

210 This amendment removes the reference to the financial support being paid out of ‘money provided by Parliament expenditure’. This is to ensure consistency through the Bill and does not produce a different effect in substantial terms.

#### **Commons Amendments 206 and 207**

211 These amendments clarify the provisions for financial assistance by acquisitions, in particular by removing reference to these necessarily being investments. This is to ensure consistency across provisions for financial assistance throughout the Bill.

## **Part 12: Offshore Wind Electricity Generation, Oil and Gas**

### **Commons Amendments to Clause 245: Meaning of “relevant offshore wind project”**

#### **Commons Amendment 208**

212 This amendment would change the definition in clause 245 to “relevant offshore wind activity”. It would also widen the definition to clarify that the clauses in this Chapter apply to offshore wind plans (i.e., the identification of an area for offshore wind development, whether or not any particular offshore wind electricity infrastructure is in contemplation). This would include, for example, offshore wind leasing rounds, as undertaken by The Crown Estate.



## Commons Amendment 209

213 This amendment would define “offshore wind electricity infrastructure” for the purposes of Commons amendment 208. It would also clarify that offshore transmission infrastructure used for the conveyance of electricity generated from offshore wind (for example, a “bootstrap” cable) is within that definition. These are cables in the UK marine area that convey electricity from a mixture of sources, including offshore wind-generated electricity. This definition would not include other marine infrastructure, such as port developments.

## Commons Amendment 210

214 This amendment would clarify that offshore infrastructure for the conveyance of electricity generated from sources other than offshore wind is covered by new subsection (2)(b)(ii) for clause 245 (see amendment 209), provided that it will also be used for the conveyance of electricity generated from offshore wind.

## Commons Amendments to Clause 246: Strategic compensation for adverse environmental effects

### Commons Amendments 211 to 214

215 These amendments are consequential on Commons amendment 208.

## Commons Amendments to Clause 247: Marine recovery fund

### Commons Amendments 215, 216, 219 and 221

216 These amendments are consequential on Commons amendment 208.

### Commons Amendments 217 and 222

217 These amendments would provide that regulations under clause 247 may enable the person who imposed a compensation condition (as defined by clause 247(5)) to make a determination about the extent to which a payment into a Marine Recovery Fund discharges that condition.

### Commons Amendments 218 and 220

218 These amendments are consequential on Commons amendment 217.

## Commons Amendment 223

219 This amendment would clarify that only functions of the Secretary of State that relate to the operation or management of a Marine Recovery Fund are capable of being delegated by regulations under clause 247.

## Commons Amendment 224

220 This amendment would provide that regulations under clause 247 that make provision for the delegation of functions to a Scottish public authority, a Welsh public authority or a Northern Ireland public authority must require the consent of the Scottish Ministers, the Welsh Ministers or the Department for Agriculture, Environment and Rural Affairs in Northern Ireland (as relevant).

## Commons Amendment 225

221 This amendment would impose a consultation requirement on the Secretary of State before making regulations under clause 247. It would require the Secretary of State to consult the devolved administrations to the extent that the regulations relate to activities in their areas.

## Commons Amendment 226

222 This amendment would remove subsection (11) of clause 247, the substance of which has been moved into clause 250 (see Commons amendment 246).

## Commons Amendments to Clause 248: Assessment of environmental effects etc

### Commons Amendments 227 to 229, 231, 232, 234 and 240

223 These amendments are consequential on Commons amendment 208.

## Commons Amendment 230

224 This amendment would remove the reference to qualifying Secretary of State functions from clause 248(2)(a). The Government considers that this provision is not necessary in relation to the Scottish inshore region.

## Commons Amendment 233

225 This amendment would ensure that the Welsh Ministers have the power to make regulations under clause 248 in relation to activity in the Welsh inshore region relating to the identification of an area for offshore wind development.

## Commons Amendment 235

226 This amendment (and Commons amendment 242) would remove the ability for regulations under clause 248(1) to disapply or modify rights arising under the Habitats Directive. This is because of section 2 of the Retained EU Law (Revocation and Reform) Act 2023, as a result of which such rights will cease to be recognised or enforceable in domestic law.

## Commons Amendment 236

227 This amendment would remove provisions of the Conservation of Habitats and Species Regulations 2017 from the list of provisions that may be disapplied or modified by regulations under clause 248(1) made by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.

## Commons Amendment 237

228 This amendment would clarify that regulations made under clause 248 by the Secretary of State may not abolish functions that are exercisable by a Scottish, Welsh or Northern Ireland public authority or provide for such functions to be exercisable, concurrently, by another person. Regulations may, however, modify such a function.

## Commons Amendment 238

229 This amendment would enable regulations under clause 248 to authorise the giving of directions by a person specified in the regulations (as well as by the appropriate authority). The regulations could, for example, authorise the giving of directions by the person carrying out an environmental assessment or by a devolved administration.

## Commons Amendment 239

230 This amendment would prevent regulations under clause 248 authorising the giving of a direction to a Scottish or Welsh public authority by a person other than (as the case may be) the Scottish Ministers or the Welsh Ministers.

## Commons Amendment 241

231 This amendment is consequential on Commons amendment 230.

## Commons Amendment 242

232 This amendment is consequential on Commons amendment 235.

## **Commons Amendments to Clause 249: Regulations under section 248: consultation and procedure**

### Commons Amendments 243 and 244

233 These amendments are consequential on Commons amendment 208.

## **Commons Amendments to Clause 250: Interpretation of Chapter 1**

### Commons Amendment 245

234 This amendment is consequential on Commons amendment 208.

### Commons Amendment 246

235 This amendment would provide a Chapter-wide definition for the references to a Scottish, Welsh or Northern Ireland public authority.

## **Commons Amendments After Clause 252: Regulations under section 251 and 252: procedure with devolved authorities**

### Commons Amendment 247

236 This new clause would require the Secretary of State to carry out a consultation process with relevant devolved authorities, where regulations under clause 251 contain provision within devolved competence. This new clause would also require the Secretary of State to obtain consent: from Scottish Ministers, where regulations under clause 252 contain provision within Scottish devolved competence; and from Welsh Ministers, where regulations under clause 252 contain provision within Welsh devolved competence.

## **Commons Amendments to Clause 254: Model clauses of petroleum licences**

### Commons Amendments 248 to 253

237 Amendments 248 to 253 make necessary changes to the wording of clause 254, consequential on Commons amendment 328.

## **Part 13: Civil Nuclear Sector**

## **Commons Amendments to Clause 257: Decommissioning of Nuclear Sites etc.**

### Commons Amendment 254

238 This amendment corrects a minor and technical drafting error in the new section 3A of the Nuclear Installations Act 1965: a “licensed disposal site” (as currently defined for the purposes of the new section) is not a nuclear installation (within the meaning given by section

26(1) of the Act) and therefore specifically referring to one in section 3A(3) is not necessary. This amendment omits the words “or a licensed disposal site” from this section.

### Commons Amendment 255

239 Amendment 254, consequential on amendment 254, removes the unnecessary definition of “licensed disposal site” from the new section 3A of the Nuclear Installations Act 1965.

### Commons Amendment 256

240 This amendment corrects wording in the new section 5A of the Nuclear Installations Act 1965 so that the test for ending the Period of Responsibility for a "licensed disposal site" is the same as for a prescribed disposal installation.

### Commons Amendment 257

241 This amendment adds the necessary definition of the phrase “licensed disposal site” to the new section 5A of the Nuclear Installations Act 1965.

## Commons Amendment After Clause 259: Convention on Supplementary Compensation for Nuclear Damage: implementation power

### Commons Amendment 258

242 This new clause gives the Secretary of State the power to make modifications to the Nuclear Installations Act 1965 and other relevant legislation in relation to UK’s accession to and implementation of the Convention on Supplementary Compensation for Nuclear Damage (CSC). This clause is required to implement the CSC, or for the purposes of dealing with any other matter arising out of the CSC. This power would be exercised through making regulations subject to the affirmative procedure to ensure the opportunity for parliamentary scrutiny.

## Commons Amendments After Clause 269 (New Clauses): Great British Nuclear

### Commons Amendment 259

243 This amendment allows the Secretary of State for the Department of Energy Security and Net Zero to designate by notice a company as Great British Nuclear (GBN), provided that the company is limited by shares and wholly owned by the Crown.

244 The Secretary of State would also have a power to revoke the designation of a company as GBN when required.

### Commons Amendment 260

245 This amendment confirms that a company designated as GBN will not have Crown status. It also confirms that GBN’s property will not be regarded as owned by or on behalf of the Crown.

### Commons Amendment 261

246 This amendment sets out GBN’s role as a delivery vehicle for Government policy for new nuclear projects. It sets its objects as a company as undertaking activities that ‘facilitate the design, construction, commissioning and operation of nuclear energy generation projects for the purpose of furthering HM Government’s policies.’

## Commons Amendment 262

- 247 This amendment allows the Secretary of State to give financial assistance to GBN to deliver its objectives. This funding can be provided to GBN in any form, including grant or via the acquisition of shares. In addition to providing the funding for GBN's operating costs, this power will enable GBN to deploy government funding via its subsidiaries, to invest in individual nuclear projects and co-fund technologies through their development.
- 248 This amendment also allows the Secretary of State to provide financial assistance directly to 'any other person to facilitate the design, construction, commissioning and operation of nuclear energy generation projects.' This provides flexibility to the Secretary of State when planning future projects and also means that, should GBN cease to exist in the future, the Secretary of State can continue to fund ongoing projects.
- 249 This clause will allow for financial assistance to be provided by the acquisition of debt instruments.
- 250 Funding may be provided subject to conditions set by the Secretary of State and the exact level of funding provided for investment in new nuclear projects will be subject to future spending review decisions.

## Commons Amendment 263

- 251 This amendment allows the Secretary of State to give GBN directions or guidance. Such directions and guidance must be published, and any directions must also be laid before Parliament.
- 252 The Government's policy intention is that GBN will generally be operationally independent. However, given GBN's broad and potentially shifting responsibilities over time it is considered necessary that the Secretary of State has a mechanism through which to set the strategic direction of GBN in line with government policy.

## Commons Amendment 264

- 253 This amendment requires that GBN send a report to the Secretary of State at the end of each financial year outlining its activities undertaken during that year. The Secretary of State will lay this before Parliament, together with any comments they wish to add. This will ensure that Parliament remains informed of the operations of GBN.

## Commons Amendment 265

- 254 As a company under the Companies Act GBN must produce annual accounts and reports. This amendment requires that GBN send a copy of these to the Secretary of State before the end of the filing period. The Secretary of State would then be required to lay them before Parliament, ensuring Parliament remains informed of GBN's performance. (This is in addition to the report on GBN's activities required by the preceding clause.)

## Commons Amendment 266

- 255 This amendment allows the Secretary of State to make transfer schemes to transfer property, rights and liabilities in connection with GBN.
- 256 When a GBN company is designated and as its activities evolve over time, property, rights and liabilities may need to be transferred to or from GBN to other relevant public bodies or companies. Subsections (1) lists a broad range of potential transferors and transferees to provide flexibility for future transfers.

257 There may also be future scenarios where GBN assumes or relinquishes involvement in particular civil nuclear generation projects, necessitating the transfer of property, rights and liabilities to or from it.

258 The amendment sets out a set of principles, procedures and expectations in relation to the transfer scheme that will help provide clarity to affected parties. For example, to ensure the representations of transferors are taken into consideration, the Secretary of State will be required to consult them or any other such person considered appropriate.

### Commons Amendment 267

259 This amendment allows the Secretary of State to provide for compensation to a transferor or a person who has suffered loss or damage in consequence of the transfer schemes.

260 The principle is that a transferor or a person entitled to compensation should be sufficiently compensated by the transferee(s) and/or the Secretary of State for the costs borne by them in connection with the transfer of property, rights and liabilities under the transfer schemes.

261 The liability for paying this compensation would lie with the transferee or the Secretary of State.

### Commons Amendment 268

262 This amendment allows the Treasury to vary the way tax has effect in relation to things transferred under transfer schemes made under Commons amendment 266. This will ensure that there are no unnecessary circular movements of money within government and will ultimately ensure value for money for government.

263 This power should only be exercised for transfers between public bodies; private sector transfers will be treated in the same manner as commercial transactions.

### Commons Amendment 269

264 This amendment will make certain that transfers under the transfer scheme are efficiently carried out without unnecessary obstruction to the provision of essential information or assistance that are required for a transfer. This amendment ensures this by providing the Secretary of State with the ability to direct a person involved in the transfer to provide such information and assistance, for example any relevant documents.

### Commons Amendment 270

265 This amendment provides that persons that have reasonably incurred expenditure in connection with the designation of a company as GBN be reimbursed by the Secretary of State.

### Commons Amendment 271

266 This amendment allows the Secretary of State to make provision, by regulations, about pension arrangements in relation to GBN. During future transfers this regulation making power will facilitate the participation of GBN in pension schemes for transferring employees. Before the power is exercised, the relevant pension scheme trustees and principal employers must be consulted. They may also be directed by the Secretary of State to provide relevant information and assistance.



## Part 14: General

### Commons Amendments to clause 270: Prohibition of new coal mines

#### Commons Amendment 272

267 This amendment would remove clause 270 from the Bill, which was inserted at Lords Report. This clause would, within six months of the day on which the Act is passed, prohibit the opening of new coal mines and the licensing of new coal mines by the Coal Authority or its successors. The effect of this clause will prohibit future licensing of all new coal extraction, regardless of its use, including area extensions to existing coal mining in Great Britain. It would capture coal projects going through the licensing process that hadn't secured operational licenses by the time the prohibition comes into effect.

### Commons Amendments to clause 271: GEMA general duties relating to climate change

#### Commons Amendment 273

268 This amendment would remove clause 271 from the Bill, which was inserted at Lords Report. Clause 271 seeks to introduce a statutory Net Zero duty for the GEMA.

269 The Government does not consider Clause 271, as drafted, to be fit for purpose as neither Ofgem nor the consumer can 'enable' the Secretary of State to meet his net zero targets in the Climate Change Act 2008. The Commons therefore propose amendment 175 as an alternative.

### Commons Amendments to clause 272: Community and Smaller-scale Electricity Export Guarantee Scheme

#### Commons Amendment 274

270 This amendment would remove clause 272 from the Bill, which was inserted at Lords Report. This clause requires the Secretary of State to make regulations within six months of the passing of the Act requiring licensed energy suppliers with more than 150,000 customers ("eligible licensed suppliers") to purchase electricity exports from sites that generate low carbon electricity with a capacity below 5MW, including from sites operated by community groups.

### Commons Amendments to clause 273: Community and Smaller-scale Electricity Supplier Service

#### Commons Amendment 275

271 This amendment would remove clause 273 from the Bill, which was inserted at Lords Report. This clause requires the Secretary of State to make regulations, within six months of the day on which the Act is passed, requiring licensed electricity suppliers with more than 150,000 customers to offer a Community and Smaller-scale Electricity Supplier service agreement to any registered Community or Smaller-scale Energy site under section 272.

272 The purpose of the agreement is to allow that site to sell electricity generated to local consumers. Eligible suppliers would be required to make a local tariff available to relevant consumers, and report annually to GEMA, the governing body of Ofgem. Ofgem would be required to publish guidance and report annually on the scheme.

## **Commons Amendments to clause 274: Power to make consequential provision**

### **Commons amendment 276**

273 This amendment clarifies that primary legislation (such as the Electricity Act 1989) which has been amended by the Bill can also be consequentially amended under this power.

## **Commons Amendments to clause 275: Regulations**

### **Commons Amendment 277**

274 This is an amendment to clause 275 to ensure that Treasury regulations under paragraph 9 of Schedule 7 are made by statutory instrument.

### **Commons Amendment 278**

275 This amendment to clause 275 removes a clarification about the procedure for making regulations, which the Government considers to be no longer necessary.

## **Commons Amendments to clause 277: Extent**

### **Commons Amendment 279**

276 This amendment would limit the scope of the provisions of Part 3 so that only Chapter 1 of Part 3 would extend to England and Wales, Scotland and Northern Ireland.

### **Commons Amendment 280**

277 This amendment is consequential on Commons amendment 284.

### **Commons Amendment 281**

278 This amendment provides for the whole of Chapter 3 of Part 3, except for the new clause on renewable liquid heating fuel obligations, to extend to England and Wales, Scotland and Northern Ireland.

### **Commons Amendment 282**

279 This amendment provides for the whole of Part 9 (energy performance of premises) to apply to England and Wales, Scotland and Northern Ireland.

### **Commons Amendment 283**

280 This amendment provides for Part 3 (licensing of hydrogen pipeline projects) to extend to England and Wales and Scotland.

### **Commons Amendment 284**

281 This amendment provides for Commons amendment 164 to extend to England, Wales and Scotland.

### **Commons Amendment 285**

282 This amendment provides for the new clause on renewable liquid heating fuel obligations to extend to England, Wales and Scotland.



## Commons Amendment 286

283 This is a technical amendment to clause 277 to specify that the Great British Nuclear amendments extend to England, Wales and Scotland.

## Commons Amendment 287

284 This amendment provides that Chapter 2 of Part 7 extends to England and Wales only.

## Commons Amendments to clause 278: Commencement

### Commons Amendments 288 to 310

285 These amendments change the commencement dates for certain provisions of the Bill.

## Commons Amendments to clause 279: Short Title

### Commons Amendment 311

286 This amendment removes the privilege amendment inserted by the Lords.

## Schedules

### Commons amendments to Schedule 1 - Interim power of Secretary of State to grant licences

#### Commons amendment 312

287 This amendment corrects a cross-reference and renumbers a subsection to ensure a correct reading of the provisions of Schedule 1.

### Commons amendments: New Schedule – Permitted disclosures of material obtained by OGA

#### Commons amendment 313

288 This amendment inserts a new schedule which is related to Commons amendments 119 to 139 which provide powers for the North Sea Transition Authority (NSTA) to require the retention and disclosure of information and samples obtained in the context of carbon dioxide storage. This Schedule sets out the detailed circumstances in which the NSTA may lawfully disclose information they have obtained under those powers.

### Commons amendments: New Schedule – Carbon storage information and samples: appeals

#### Commons amendment 314

289 This amendment inserts a new Schedule which is related to Commons amendments 119 to 139 (as above) and, in particular, the enforcement provisions contained within those powers. This Schedule provides for the circumstances and legal mechanisms for those against whom enforcement action has been taken to bring appeals against that action.

## **Commons Amendments to Schedule 7: Transfer Scheme**

### **Commons Amendment 315**

290 This amendment makes a slight alteration to the wording so that it now refers to “property rights or liabilities” in paragraph 6 of Schedule 7. This ensures that the provision is comprehensive and that the wording is aligned between the ISOP and codes transfer schemes (detailed in Schedules 7 and 9 respectively).

### **Commons Amendment 316**

291 This amendment provides the Secretary of State with a civil enforcement power (and list certain remedies) in respect of a requirement imposed on a person by a transfer scheme under paragraph 1 of Schedule 7.

### **Commons Amendment 317**

292 This amendment removes words that the Government no longer considers necessary.

### **Commons Amendment 318**

293 This amendment leaves out paragraph 8(4) of Schedule 7, which the Government no longer considers necessary.

### **Commons Amendment 319**

294 Paragraph 9 of Schedule 7 states that Treasury may by regulations make certain provisions in respect of tax legislation as it affects the transactions that create the ISOP (or relate to ownership of its subsidiary Elexon). This amendment clarifies that any regulations under paragraph 9 of Schedule 7 would be subject to annulment by the House of Commons.

### **Commons Amendment 320**

295 This amendment removes the reference to "land and building transactions tax" and "land transaction tax" in paragraph 9 of Schedule 7 which states that the Treasury may by regulations disapply or modify the effect of certain tax-related provisions in the context of a transfer scheme made under Schedule 7.

## **Commons Amendments to Schedule 8: Pensions**

### **Commons Amendment 321**

296 This amendment clarifies that the power to require pensions information (like the power to require assistance) may be exercised where the Secretary of State reasonably requires the information in connection with the exercise of powers under Schedule 8.

## **Schedule 12: Minor and consequential amendments relating to Part 5**

### **Commons Amendments 322 to 325**

297 These amendments clarify updates to the Gas Act 1986 and Electricity Act 1989 made under Schedule 12 to the Energy Act 2023, whereby the definition of a central body is one that has been granted this role by the Secretary of State under section 181.

### **Commons Amendment 326**

298 Commons Amendment 326 removes sub-paragraph (a) from paragraph 12 of Schedule 12 and therefore removes the ability for the Secretary of State to modify the conditions of an

electricity code manager licence or related documents, such as industry codes, for the purpose of facilitating or supporting the enforcement and administration of the hydrogen levy. This amendment is consequential on Commons amendment 74.

### Commons Amendment 327

299 Commons Amendment 327 is consequential on Commons amendments 74 and 326.

## Commons amendments to Schedule 19 – petroleum licences: amendments to model clauses

### Commons amendment 328

300 This amendment inserts relevant provisions into petroleum production licences pre-dating offshore petroleum production licences granted since 2008 and onshore petroleum production licences granted since 2014.

## Commons amendments to Schedule 20 – Accession to Convention on Supplementary Compensation for Nuclear Damage

### Commons Amendments 329 and 330

301 These amendments to Schedule 20 ensure that upon accession to the CSC victims would still be able to claim for compensation through existing routes under the Paris Convention, in accordance with the UK's international obligations under that Convention. They also remove unnecessary consequential amendments.

### Commons Amendment 331

302 This amendment modifies the definition of CSC-only territory to exclude three additional categories. This ensures that it would still be possible for a victim from a CSC contracting party that falls into one of those categories to claim under both the CSC and the Paris Convention, as provided for under section 16(3BB).

### Commons Amendment 332

303 This amendment is a consequential amendment to tidy up the structure of the amendments made.

### Commons Amendment 333

304 This amendment defines “the Paris Convention” for use in the revised definition of “relevant reciprocating territory”. This amendment is linked to Commons amendment 334 which modifies the definition of “relevant reciprocating territory”.

### Commons Amendment 334

305 This amendment modifies the definition of “relevant reciprocating territory” so that it refers to a country, or overseas territory of such country, that is not a party to the Paris Convention but whose law meets the criteria set out in the definition in amendment 333 (which defines “the Paris Convention”). The result is that a CSC contracting party can potentially be both a “relevant reciprocating territory” and a CSC territory for the purposes of the Nuclear Installations Act 1965.

## Commons Amendment 335

306 This amendment ensures the definition of the “the CSC” refers to the ‘Convention on Supplementary Compensation for Nuclear Damage as amended or supplemented’.

## Title

### Commons amendments to the Long Title of the Bill

#### Commons Amendments 336, 337 and 338

307 These amendments update the long title of the Bill to take into account amendments relating to hydrogen transport and storage, carbon dioxide transport and storage and electricity support payments for energy-intensive industries.

## Financial Effects of Commons Amendments

308 The Bill required and received a Ways and Means resolution in relation to the introduction of a levy to fund hydrogen production as well as other possible payment obligations for CCUS.

309 Amendments inserted during Commons passage also required and received a further Ways and Means Resolution. Firstly, Commons amendments 149 to 161 which establish the licensing regime for hydrogen pipeline transport, sought and received a Ways and Means Resolution on the basis that holders of such licences may be required by virtue of conditions of their licences to make payments to Ofgem or to the Competition and Markets Authority.

310 Commons amendments 177 and 178 relate to the establishment of a network charging compensation scheme for energy intensive industries. These amendments required a Ways and Means Resolution on the basis that they make provision for the making of payments by electricity suppliers to the Secretary of State.

311 Commons amendments 259 to 271 set out the role of Great British Nuclear in facilitating deployment of nuclear reactors in Great Britain. This required a Ways and Means Resolution on the basis that they make provision conferring power on the Treasury to make regulations about the way in which taxes have effect in connection with a transfer of assets from one body to another. A further Ways and Means Resolution was also sought and received for a similar provision in relation to paragraph 9 of Schedule 7 relating to the Independent System Operator and Planner.

# **ENERGY BILL [HL]**

## **EXPLANATORY NOTES ON COMMONS AMENDMENTS**

These Explanatory Notes relate to the Commons Amendments to the Energy Bill as brought from the House of Commons on 6 September 2023 (HL Bill 168).

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Ordered by the House of Lords to be printed, 6 September 2023

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