

GREAT BRITISH ENERGY BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Great British Energy Bill as brought from the House of Commons on 30 October 2024 (HL Bill 43).

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

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Overview of the Bill

- 1 The purpose of this Bill is to enable the Secretary of State for Energy Security and Net Zero to designate a company as Great British Energy and place it on a statutory footing. Great British Energy will be an operationally independent company wholly-owned by the Government. Its objects will be to facilitate, encourage and participate in the production, distribution, storage and supply of clean energy; the reduction of greenhouse gas emissions from energy produced from fossil fuels; improvements in energy efficiency; and measures for ensuring energy security.

Policy background

- 2 The Government has committed to decarbonising the power sector by 2030 as part of its Clean Energy Superpower mission. In the Government's view, the scale of the transformation required to achieve an affordable, secure and decarbonised power system by 2030, and to maintain this as demand grows through to 2050, requires significant investment in generation capacity and close collaboration between the private sector and government.
- 3 It is the Government's intention for Great British Energy to drive clean energy deployment, create jobs, boost energy independence, and ensure UK taxpayers, billpayers, and communities reap the benefits of clean, secure, homegrown energy. To achieve this, Great British Energy is intended to work collaboratively with industry, local authorities, communities, and other public sector organisations to spread skilled jobs and investments across the country. The policy intent is also for Great British Energy to invest in, own, and develop clean energy projects in order to derisk and accelerate the delivery of projects and provide support where there is a market gap. For example, the Government intends for Great British Energy to partner with local and combined authorities, as well as community energy groups, to roll out small and medium-scale renewable power projects. The policy intent is that these activities will crowd-in private investment.
- 4 It is also the policy intent that, while Great British Energy will be set up to have an early impact, it will also be set up for long-term success beyond 2030 to help meet future demand from delivering a net zero UK economy.
- 5 In accordance with its objects, which the Bill seeks to establish, Great British Energy will be able to engage in all aspects of clean energy projects, including design, development, construction, commissioning and operation of projects. The policy intent is that this clause covers supporting infrastructure across the clean energy supply chain, establishing the Local Power Plan, and measures that support the security of supply and energy efficiency. Great British Energy will be able to provide support to industry, local authorities and community groups through a variety of mechanisms including but not limited to equity, loans, grants, insurance, and guarantees. The Government does not intend for Great British Energy to be an energy retail company or to supply energy directly to households.
- 6 Through the objects in clause 3(2)(a) to (d), Great British Energy will be able to:
 - a) undertake a range of activities to drive clean energy deployment. This includes, but is not limited to, investing in new technologies and partnering with the private sector to accelerate the deployment of mature technologies
 - b) invest in, own, manage and operate energy projects that help to decarbonise the energy system. This could include, for example, power plants fitted with carbon capture infrastructure

- c) support decarbonisation through energy efficiency measures, for example: where projects best address generation and energy efficiency together
- d) support UK energy independence and support security of energy supply

Legal background

- 7 A company called Great British Energy Group Ltd. which the Government intends to designate as Great British Energy (see commentary below), has been set up under the Companies Act 2006 (c.46) and is wholly-owned by the Secretary of State. The establishment of this company relies on the common law capacity of the Crown to form and support companies.
- 8 As a registered company, Great British Energy is bound by the Companies Act 2006. The present Bill will complement provisions in that Act (for example, on reporting) and may, in some cases, overlay or modify the company's obligations (see, for example, clauses 3(1), 5(8) and 6, as described below).

Territorial extent and application

- 9 Clause 8 sets out the territorial extent of the Bill. The Bill extends and applies to the whole of the United Kingdom.
- 10 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned. Aspects of the Bill fall within devolved competence. In line with the Sewel Convention, the UK Government has sought the legislative consent of the devolved legislatures to the extent the provisions engage the Legislative Consent Motion process.
- 11 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Clause 1: Great British Energy

- 12 This clause allows the Secretary of State to designate a company as Great British Energy, provided that the company is limited by shares and wholly-owned by the Crown. The Secretary of State does so by giving notice, which must specify the time from which the designation has effect. The notice must be published as soon as reasonably practicable after it has been given.
- 13 The clause also allows the Secretary of State to revoke the designation and provides for the designation to terminate if the company ceases to be wholly owned by the Crown.

Clause 2: Crown status

- 14 This clause provides that Great British Energy will not have Crown status, and that Great British Energy's property is not to be regarded as owned by, or on behalf of, the Crown.

Clause 3: Objects

- 15 This clause sets out the objects of Great British Energy and requires Great British Energy to secure that their articles of association are consistent with those objects. Those objects are facilitating, encouraging and participating in the production, distribution, storage and supply of clean energy; the reduction of greenhouse gas emissions from energy produced from fossil fuels; improvements in energy efficiency, and measures for ensuring the security of the supply of energy.

Clause 4: Financial assistance

- 16 This clause enables the Secretary of State to provide financial assistance to Great British Energy, which would occur in line with its agreed financial framework and HMT delegations. Financial assistance may be provided in any form, including grants, loans, guarantees, indemnities, and through acquisitions and contracts.

Clause 5: Strategic priorities and plans

- 17 This clause requires the Secretary of State to prepare and lay before Parliament a statement of strategic priorities for Great British Energy. Such a statement may be revised or replaced by the Secretary of State. The policy intention is that the statement will provide Great British Energy with a steer on where, in the Government's view, the company should prioritise and focus its activities.
- 18 The clause also requires Great British Energy to secure that its articles of association provide for the company to publish and act in accordance with strategic plans, which must reflect the Secretary of State's strategic statement; and for Great British Energy to update those plans whenever the Secretary of State's strategic statement is revised or replaced. The policy intention is that Great British Energy will do so within a reasonable timeframe, taking into consideration the scale of the changes required in response to any updates.

Clause 6: Directions

- 19 This clause allows the Secretary of State to give directions to Great British Energy. The Secretary of State is not able to do so until they have consulted Great British Energy and such other persons as the Secretary of State considers appropriate. Any directions given must be published and laid before Parliament by the Secretary of State. Great British Energy is required by subsection (2) to comply with directions given under this clause.
- 20 The Secretary of State will be the only shareholder of the company and could therefore influence Great British Energy's activities by means of their ownership stake under normal

principles of company law. As such, the policy intention behind the clause is that the direction-giving power is of a reserve nature, exercisable in cases where a more precise, tailored, and expeditious form of intervention may be needed than general company law could afford.

- 21 The Government's policy is that such influence should be used sparingly in practice, and that the default position should be that Great British Energy is independent as regards its operations and investment decisions. The Government will be constrained by public law and public policy considerations to act rationally and proportionately in any use of its influence over the company.
- 22 This power is consistent with the power that the Government has to direct comparable institutions, for example: the Department for Energy Security and Net Zero has a statutory power to direct Great British Nuclear, although, to date, this has never been used.

Clause 7: Annual accounts and report

- 23 This clause requires Great British Energy to provide the Secretary of State with a copy of the annual reports and accounts they will be required to produce by section 441 of the Companies Act 2006. The clause also requires the Secretary of State to lay a copy of these documents in Parliament.

Clause 8: Extent, Commencement and Short Title

- 24 The Bill extends to England and Wales, Scotland and Northern Ireland.
- 25 The Bill will come into force on the day on which the Act is passed.
- 26 The short title of the Act resulting from the Bill will be the Great British Energy Act 2024.

Commencement

27 See paragraph 25 above.

Financial implications of the Bill

- 28 Clause 4 establishes that the Secretary of State can provide Great British Energy with financial assistance to deliver its objects under the Bill.
- 29 The Secretary of State, in line with usual practice concerning compliance with its agreed financial framework and HMT delegations, will provide Great British Energy with £8.3 billion over the course of this Parliament.

Parliamentary approval for financial costs or for charges imposed

- 30 The House of Commons passed a money resolution for this Bill on 5 September 2024, to cover new public expenditure by the Secretary of State under Clause 4, which provides a power for the Secretary of State to provide financial assistance to Great British Energy.
- 31 No ways and means resolution is required for the Bill because the Bill does not authorise any new taxation or other similar charges.

Compatibility with the European Convention on Human Rights

- 32 The Government considers that the Great British Energy Bill is compatible with the European Convention on Human Rights (ECHR). Accordingly, Lord Hunt of Kings Heath, the Minister of State for Energy Security and Net Zero, has signed a statement under section 19(1)(a) of the Human Rights Act 1998 to this effect. The Bill does not deprive anyone of their possessions and any intellectual property disputes around names or trade marks would not amount to a deprivation of property for the purposes of the Convention (Article 1 of the First Protocol). No other convention rights are potentially engaged by the Bill itself. Some of the functions of Great British Energy may be of a sufficiently public nature for it to be regarded as a public authority under section 6(3) of the Human Rights Act 1998, but these are matters that will need to be considered on a case- by- case basis once Great British Energy starts to operate.

Environment Act 2021: Section 20

- 33 Lord Hunt of Kings Heath, the Minister of State for Energy Security and Net Zero, is of the view that the Bill as brought from the House of Commons contains provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021, but that the Bill would not have the effect of reducing the level of environmental protection provided for by any existing environmental law. Accordingly, Lord Hunt of Kings Heath has signed a statement under that section 20(2)(a) and (3) of the Environment Act 2021 to that effect.

