

# **Memorandum for Public Bill Committee on the application of Standing Order No. 83L of the Standing Orders of the House of Commons relating to Public Business to the Energy Bill [as amended]**

## ***The Bill on Introduction***

The following is the Department's assessment of the Bill at Introduction:

### Territorial extent and application

1. The Bill will have UK extent where it relates to oil and gas. It will not apply onshore in Northern Ireland, but will apply:
  - a. offshore in the territorial sea around the UK and in the continental shelf;
  - b. onshore in England; and
  - c. onshore in Scotland and Wales in a manner that respects the changing devolution position.
2. The provision relating to onshore wind planning extends to Great Britain, but only makes changes in relation to England and Wales.
3. The provision relating to the UK carbon account extends to the UK as it amends section 27 of the Climate Change Act 2008, which extends to the UK (see section 99(1) of the 2008 Act).
4. The above assessment is presented in tabular form on page 2.

### Subject matter and legislative competence of Devolved Administrations

5. In the view of the Government, the subject matter of clause 79, which is the consenting of onshore wind generating stations, would be within the legislative competence of the Northern Ireland Assembly as provided in section 6 of the Northern Ireland Act 1998. Consenting for electricity generating stations, including wind farms, is a reserved matter for Scotland. The clause would not be a devolved matter as regards Wales, since it is not a matter within Welsh legislative competence under Schedule 7 to the Government of Wales Act 2006.
6. The subject matter of clause 80 relates to climate change and therefore, more generally the environment. In the view of the Government, the clause would be a devolved matter as regards Wales since it relates to "the environment" which is a subject within Welsh legislative competence under paragraph 6 of Part 1 of Schedule 7 to the Government of Wales Act 2006. Similarly, as regards Scotland it is devolved since it is not a matter reserved in Schedule 5

to the Scotland Act 1998 and as regards Northern Ireland since it deals with a matter which is transferred under the Northern Ireland Act 1998.

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Is the matter devolved in Wales?	Extends and applies to Scotland?	Is the matter devolved in Scotland?	Extends and applies to Northern Ireland?	Is the matter devolved in Northern Ireland?
<b>Clauses 1 – 17: (Oil and Gas Authority and its core functions)</b>	Yes	Yes	No	Yes	No	Yes	No
<b>Clauses 18 – 70: Further functions of the Oil and Gas Authority relating to offshore petroleum</b>	Yes	Yes	No	Yes	No	Yes	No
<b>Clauses 71 – 76: Infrastructure and information</b>	Yes	Yes	No	Yes	No	Yes (except clauses 71 and 72)	No
<b>Clauses 77 and 78: Fees</b>	Yes	Yes	No	Yes	No	Yes	No
<b>Clause 79: Wind Power</b>	Yes	Yes	No	No	No	No	Yes
<b>Clause 80: United Kingdom Carbon Account</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Clauses 81 – 84: Final provision</b>	Yes	Yes	No	Yes	No	Yes	No
<b>Schedule 1: Transfer of functions to the OGA</b>	Yes	Yes	No	Yes	No	Yes (except paras 63 to 76)	No
<b>Schedule 2: Abandonment of offshore installations</b>	Yes	Yes	No	Yes	No	Yes	No

## ***Commons Stage Committee amendments***

The following is the Department's assessment of the Bill and Government amendments to the Bill tabled for consideration in Public Bill Committee:

### Territorial extent and application

7. The amendments made to clauses 8, 17, 83 and 84 do not affect the territorial application of the Bill.
8. Clause 80 of the Bill has been removed in its entirety.
9. The RO closure clauses (New Clauses 1, 2 and 3) apply to Great Britain. The subject matter of the clauses relates to electricity generation and supply. In the view of the Government, the clause would not be a devolved matter as regards Wales, as electricity generation and supply is not a subject within Welsh legislative competence under Schedule 7 to the Government of Wales Act 2006. Similarly, as regards Scotland, the Government's view is that it is reserved, since it relates to "generation, distribution, transmission and supply of electricity" which is reserved under Part II of Schedule 5 to the Scotland Act 1998. However, as regards Northern Ireland, in the view of the Government it would be a devolved matter, because it does not deal with an excepted or reserved matter under Schedule 2 or 3 to the Northern Ireland Act 1998.
10. The above assessment is presented in tabular form on pages 4 and 5.

Provision	England	Wales	Scotland	Northern Ireland
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	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Is the matter devolved in Wales?	Extends and applies to Scotland?	Is the matter devolved in Scotland?	Extends and applies to Northern Ireland?	Is the matter devolved in Northern Ireland?
<b>Clauses 1 – 17: (Oil and Gas Authority and its core functions)</b>  <i>To note that clause 8 has been removed from the Bill</i>	Yes	Yes	No	Yes	No	Yes	No
<b>Clauses 18 – 70: Further functions of the Oil and Gas Authority relating to offshore petroleum</b>	Yes	Yes	No	Yes	No	Yes	No
<b>Clauses 71 – 76: Infrastructure and information</b>	Yes	Yes	No	Yes	No	Yes (except clauses 71 and 72)	No
<b>Clauses 77 and 78: Fees</b>	Yes	Yes	No	Yes	No	Yes	No
<b>Clause 79: Wind Power</b>	Yes	Yes	No	No	No	No	Yes
<b>NC1– onshore wind closure of the Renewables Obligation ON 31 March 2016</b>	Yes	Yes	No	Yes	No	No	Yes
<b>NC2 – Onshore wind power: circumstances in which certificates may be issued after 31 March 2016</b>	Yes	Yes	No	Yes	No	No	Yes
<b>NC3 - use of Northern Ireland certificates: onshore wind power</b>	Yes	Yes	No	Yes	No	No	Yes
<b>Clauses 81 – 84: Final provisions</b>	Yes	Yes	No	Yes	No	Yes	No

<b>Schedule 1: Transfer of functions to the OGA</b>	Yes	Yes	No	Yes	No	Yes (except paras 63 to 76)	No
<b>Schedule 2: Abandonment of offshore installations</b>	Yes	Yes	No	Yes	No	Yes	No