

# Energy Bill [HL]

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AMENDMENTS  
TO BE MOVED  
IN COMMITTEE

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**After Clause 7**

LORD BOURNE OF ABERYSTWYTH

Insert the following new Clause –

**“Powers of the OGA to charge fees**

- (1) The OGA may charge fees –
  - (a) for making a determination under Schedule 1 to the Oil Taxation Act 1975;
  - (b) on an application made to it under section 3, 15, 16 or 17 of the Petroleum Act 1998;
  - (c) on an application of a prescribed description made to it by the holder of a licence granted under –
    - (i) section 3 of that Act (searching for, boring and getting petroleum), or
    - (ii) section 2 of the Petroleum (Production) Act 1934 (licences to search for and get petroleum);
  - (d) on an application of a prescribed description made to it by the holder of an authorisation issued under section 15 of the Petroleum Act 1998;
  - (e) for carrying out or attending any test, examination or inspection of a prescribed description;
  - (f) on an application made to it under section 4 or 18 of the Energy Act 2008;
  - (g) on an application of a prescribed description made to it by the holder of a licence granted under section 4 or 18 of that Act;
  - (h) for the storage by it of samples or information in accordance with an information and samples plan (see section (*Information and samples plans: supplementary*)(2) of this Act).
- (2) The fees –
  - (a) are to be determined by or in accordance with regulations made by the Secretary of State, and
  - (b) are to be payable by such persons as the regulations may provide.

**After Clause 7 – continued**

- (3) The OGA must pay into the Consolidated Fund any amount which it receives in respect of fees charged by it under this section.
- (4) Subsection (3) does not apply where the Secretary of State, with the consent of the Treasury, otherwise directs.
- (5) Where in relation to any matter the OGA has a function mentioned in subsection (6), that function is treated for the purposes of this section as carried out pursuant to an application made to the OGA (whether or not there is any requirement to make such an application).
- (6) The functions are –
  - (a) extending the term of a licence;
  - (b) giving its consent or approval in relation to any matter;
  - (c) objecting in relation to any matter.
- (7) The Secretary of State must consult the OGA before making regulations under this section.
- (8) In this section “prescribed” means prescribed by regulations made by the Secretary of State.”

Insert the following new Clause –

**“Levy on licence holders**

- (1) The Secretary of State may, by regulations, provide for a levy to be imposed on, and be payable by, one or more of the following kinds of persons –
  - (a) persons who hold licences (other than excluded licences) granted under section 3 of the Petroleum Act 1998 (searching for, boring and getting petroleum);
  - (b) persons who hold licences (other than excluded licences) granted under section 2 of the Petroleum (Production) Act 1934 (licences to search for and get petroleum);
  - (c) persons who hold licences granted under section 4 of the Energy Act 2008 (unloading and storing gas);
  - (d) persons who hold licences granted under section 18 of the Energy Act 2008 by the Secretary of State or the OGA (storage of carbon dioxide).
- (2) The Secretary of State must exercise the power conferred by subsection (1) so as to secure –
  - (a) that the total amount of licensing levy which is payable in respect of a charging period does not exceed the costs incurred by the OGA in exercising its functions in respect of that period, and
  - (b) that no levy is payable in respect of costs incurred in the exercise of functions –
    - (i) for which fees are charged under section (*Powers of the OGA to charge fees*), or
    - (ii) which the OGA is authorised to exercise by virtue of an order under section 69 of the Deregulation and Contracting Out Act 1994.

**After Clause 7 – continued**

- (3) In determining for the purposes of subsection (2)(a) the total amount of licensing levy payable in respect of a charging period, an amount of levy payable in respect of that period may be ignored if (during that period or subsequently) –
  - (a) having been paid, it is repaid or credit for it is given against other licensing levy that is payable, or
  - (b) having not been paid, the requirement to pay it is cancelled.
- (4) The amount or amounts of licensing levy payable by licence holders must be –
  - (a) set out in the regulations, or
  - (b) calculated in accordance with a method set out in the regulations.
- (5) The licensing levy is payable to the OGA.
- (6) The OGA must pay into the Consolidated Fund any amount which it receives in respect of the licensing levy.
- (7) Subsection (6) does not apply where the Secretary of State, with the consent of the Treasury, otherwise directs.
- (8) The Secretary of State must consult the OGA before making regulations under this section.
- (9) Section (*The licensing levy: regulations*) does not limit the provision that may be made by regulations under this section.
- (10) In this section and section (*The licensing levy: regulations*) –
  - “charging period” means a period in respect of which licensing levy is payable;
  - “excluded licence”, in relation to a charging period, means a licence that, if granted at the beginning of the period, would fall to be granted by the Scottish Ministers or the Welsh Ministers (and for these purposes a licence within subsection (1)(b) is to be treated as granted under section 3 of the Petroleum Act 1998);
  - “licensing levy” means the levy provided for in regulations under this section.”

Insert the following new Clause –

**“The licensing levy: regulations**

- (1) Regulations may provide for the licensing levy payable in respect of a charging period to increase or decrease over that period.
- (2) Regulations may provide for an amount of licensing levy payable by a licence holder to be calculated by reference to the size of an area to which a licence held by that person relates.
- (3) Regulations may provide for different categories of licence holders to pay –
  - (a) different amounts of licensing levy, or
  - (b) amounts of licensing levy calculated, set or determined in different ways.
- (4) Regulations may provide for a category of licence holder to be exempt from payment of the licensing levy.

**After Clause 7 – continued**

- (5) Regulations may provide for interest (at a rate specified in, or determined under, the regulations) to be charged in respect of unpaid amounts of licensing levy.
- (6) Regulations may provide for unpaid amounts of licensing levy (together with any interest charged) to be recoverable as a civil debt.
- (7) Regulations may confer a function (including a function involving the exercise of a discretion) on—
  - (a) the Secretary of State,
  - (b) the OGA, or
  - (c) any other person, apart from the Scottish Ministers or the Welsh Ministers.
- (8) Regulations (including regulations of the kinds mentioned in subsections (3) and (4)) may provide for a category of licence holder to consist of persons who hold a kind of licence that is specified in the regulations.
- (9) The regulations may (in particular) specify any of the following kinds of licence—
  - (a) licences granted under a particular enactment;
  - (b) licences of a particular description granted under a particular enactment;
  - (c) licences, or licences of a particular description (including a description falling within paragraph (a) or (b)), granted—
    - (i) before a particular time,
    - (ii) after a particular time, or
    - (iii) during a particular period.
- (10) In this section—
 

“licence” means a licence falling within section (*Levy on licence holders*)(1);

“licence holder” means a person who holds a licence (whether the person was granted it or has, after its grant, acquired it by assignment or other means);

“regulations” means regulations under section (*Levy on licence holders*).

Insert the following new Clause –

**“Payments and financial assistance**

- (1) The Secretary of State may make payments or provide financial assistance to the OGA.
- (2) The payments or financial assistance may be made or provided subject to such conditions as may be determined by the Secretary of State.
- (3) In the case of a grant such conditions may, in particular, include conditions requiring repayment in specified circumstances.
- (4) In this section “financial assistance” means grants, loans, guarantees or indemnities, or any other kind of financial assistance.”

**Clause 28**

LORD BOURNE OF ABERYSTWYTH

Page 16, line 19, at end insert –

- “(4) In determining the time to be specified in respect of protected material in regulations under section 27(8), the Secretary of State must have regard to the following factors –
- (a) whether the specified time will allow owners of protected material a reasonable period of time to satisfy the main purpose for which they acquired or created the material;
  - (b) any potential benefits to the petroleum industry of protected material being published or made available at the specified time;
  - (c) any potential risk that the specified time may discourage persons from acquiring or creating petroleum-related information or petroleum-related samples;
  - (d) any other factors the Secretary of State considers relevant.
- (5) In balancing the factors mentioned in subsection (4)(a) to (d), the Secretary of State must take into account the principal objective.
- (6) For the purposes of subsection (4)(a), the owner of protected material is the person by whom, or on whose behalf, the protected material was provided to the OGA under this Chapter.”

**Clause 40**

LORD BOURNE OF ABERYSTWYTH

Page 22, line 6, at end insert –

- “( ) The OGA must lay any guidance issued under this section, and any revision of it, before each House of Parliament.”

**After Clause 56**

LORD BOURNE OF ABERYSTWYTH

Insert the following new Part –

**“PART 2A**

INFRASTRUCTURE

**Requirements to provide information**

- (1) The Energy Act 2011 is amended as follows.
- (2) In section 87 (powers to require information), after subsection (5) insert –

“(5A) A notice under subsection (1), (2) or (3) that imposes a requirement on a person must specify when the requirement is to be complied with.”

**After Clause 56 – continued**

- (3) After that section insert –

**“87A Appeals against requirements to provide information**

- (1) Any person on whom a requirement is imposed by a notice under section 87(1), (2) or (3) may appeal against the notice to the Tribunal on the grounds that –
- (a) the information required by the notice is not relevant to the exercise by the OGA of its functions under this Chapter, or
  - (b) the length of time given to comply with the notice is unreasonable.
- (2) On an appeal under this section the Tribunal may –
- (a) confirm, vary or cancel the notice, or
  - (b) remit the matter under appeal to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate.
- (3) In this section “the Tribunal” means the First-tier Tribunal.

**87B Sanctions for failure to provide information**

- (1) A requirement imposed by a notice under section 87(1), (2) or (3) is to be treated for the purposes of Chapter 5 of Part 2 of the Energy Act 2016 (power of the OGA to impose sanctions) as a petroleum-related requirement.
- (2) But the OGA may not give a revocation notice or an operator removal notice under that Chapter by virtue of this section.””

Insert the following new Clause –

**“Applications to use infrastructure: changes of applicant and owner**

- (1) The Energy Act 2011 is amended as follows.
- (2) In section 82(13) (contents of notice securing rights to use infrastructure), omit paragraph (b).
- (3) In section 87(6) (circumstances in which information may be disclosed) –
- (a) omit the “or” at the end of paragraph (a), and
  - (b) after paragraph (b) insert “or
  - (c) the disclosure is made under section 89A or 89B.”
- (4) After section 89 insert –

**“89A Assignments and assignments of applications**

- (1) This section applies where –
- (a) there is an assignment or assignation of an application made under section 82 from one person (“A”) to another (“B”), and
  - (b) the following are notified of the assignment or assignation –
    - (i) the owner of the pipeline or facility that is the subject of the application, and
    - (ii) the OGA.

**After Clause 56** – *continued*

- (2) A notice under subsection (1)(b) must –
  - (a) be in writing, and
  - (b) specify the date of the assignment or assignation.
- (3) For the purposes of this Chapter, anything done (or treated as done) by or in relation to A in connection with the application is treated after the assignment or assignation as having been done by or in relation to B.

This subsection is subject to subsections (4) and (5) and does not apply for the purposes of subsections (6) and (7).
- (4) Any provision of this Chapter that requires the OGA to give the applicant an opportunity to be heard has effect after the assignment or assignation as requiring the OGA to give B an opportunity to be heard (whether or not the applicant was heard under that provision before the assignment or assignation).
- (5) Subsection (3) does not apply in relation to any notice given under section 87 before the assignment or assignation (and, accordingly, the person to whom the notice was given remains under an obligation to comply with it).
- (6) Any information relating to the application obtained by the OGA before the assignment or assignation from any person who at the time was the applicant may be disclosed to B.
- (7) Before disclosing any such information to B, the OGA must remove any information which the OGA considers may prejudice the commercial interests of the person from whom the information was obtained.

**89B Transfers of ownership**

- (1) This section applies where the ownership of a pipeline or facility that is the subject of an application under section 82, or to which a notice under subsection (11) of that section relates, is transferred from one person (“C”) to another (“D”).
- (2) For the purposes of this Chapter –
  - (a) anything done (or treated as done) by or in relation to C in connection with C’s ownership of the pipeline or facility is treated after the transfer as having been done by or in relation to D, and
  - (b) any obligations imposed or rights conferred (or treated as imposed or conferred) by or under this Chapter on C in connection with C’s ownership of the pipeline or facility are treated after the transfer as imposed or conferred on D.

This subsection is subject to subsections (3) and (4) and does not apply for the purposes of subsections (5) and (6).
- (3) Any provision of this Chapter that requires the OGA to give the owner of the pipeline or facility an opportunity to be heard has effect after the transfer as requiring the OGA to give D an opportunity to be heard (whether or not the owner was heard under that provision before the transfer).

**After Clause 56 – continued**

- (4) Subsection (2) does not affect the obligation to comply with any notice given under section 87 before the transfer (and, accordingly, the person to whom the notice was given remains under an obligation to comply with it).
- (5) Any information relating to the application obtained by the OGA before the transfer from any person who at the time was the owner may be disclosed to D.
- (6) Before disclosing any such information to D, the OGA must remove any information which the OGA considers may prejudice the commercial interests of the person from whom the information was obtained.””

**Clause 61**

## LORD BOURNE OF ABERYSTWYTH

Page 33, line 14, leave out “or” and insert –

“(aa) regulations under section 27(8), or”

**The Schedule**

## LORD BOURNE OF ABERYSTWYTH

Page 38, line 37, at end insert –

“( ) Omit paragraph 1(2).”

Page 40, line 7, at end insert –

“*Energy Act 2004*

- (1) Section 188 of the Energy Act 2004 (power to impose charges to fund energy functions) is amended as follows.
- (2) In subsection (7), omit paragraphs (b), (h), (m) and (n).
- (3) In subsection (8), omit paragraphs (da), (db) and (f).
- (4) In subsection (12), in the substituted subsection (7A)(b), for “mentioned in subsection (8)(db)” (in both places) substitute “for which a licence under Chapter 3 of Part 1 of the Energy Act 2008 is required”.

Page 40, line 12, at end insert –

“( ) In that subsection, omit paragraph (e).”

Page 41, line 15, at end insert –

“(c) subsection (2)(d) does not apply.”

Page 43, line 9, at end insert –

“In section 90(1) (interpretation), after the definition of “gas processing facility” insert –

““the OGA” means the Oil and Gas Authority;”.



**The Schedule** – *continued*

Page 43, line 9, at end insert –

*“Infrastructure Act 2015*

The Infrastructure Act 2015 is amended as follows.

Omit section 42 (levy on holders of certain energy industry licences).

In section 55(4)(b) (statutory instruments subject to affirmative procedure), omit “or 42(11)”.

Omit Schedule 7 (the licensing levy).”

**In the Title**

LORD BOURNE OF ABERYSTWYTH

Line 1, after “functions;” insert “to make provision about rights to use upstream petroleum infrastructure;”

# Energy Bill [HL]

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*2nd September 2015*

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PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS  
LONDON - THE STATIONERY OFFICE LIMITED  
£3.00

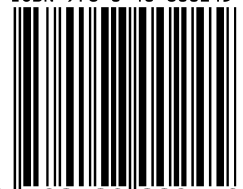
HL Bill 56(b)

(51178)

56/1



ISBN 978-0-10-800245-8



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