

Energy Bill [HL]

REVISED
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 22nd July 2015, as follows –

Clauses 1 and 2
Schedule

Clauses 3 to 63
Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 2

BARONESS WORTHINGTON

1 Page 2, line 5, at end insert –

“() The Secretary of State shall, within one year from the date of coming into force of this section, undertake an assessment of the fitness for purpose of the OGA’s powers in relation to relevant activities, and shall lay before each House of Parliament a report of the findings.”

The Schedule

LORD BOURNE OF ABERYSTWYTH

[Amendments 37 to 42 are re-printed as Amendments 1A to 1F]

1A★ Page 38, line 37, at end insert –

“() Omit paragraph 1(2).”

1B★ 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).

Amendment
No.

The Schedule – continued

- (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”.

1C★ Page 40, line 12, at end insert –

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

1D★ Page 41, line 15, at end insert –

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

1E★ 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;”.

1F★ 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).”

After Clause 3

BARONESS WORTHINGTON

2 Insert the following new Clause –

“Report to Parliament on decommissioning costs

Within one year of this Act coming into force, and annually thereafter, the Secretary of State shall report to each House of Parliament on estimated decommissioning costs for North Sea oil and gas infrastructure.”

BARONESS WORTHINGTON
LORD TEVERSON
LORD OXBURGH

3 Insert the following new Clause –

“Transportation and storage of greenhouse gases

- (1) The Petroleum Act 1998, as amended by the Infrastructure Act 2015, is amended as follows.

Amendment
No.

After Clause 3 – continued

- (2) In Section 9A(1) (the principal objective and the strategy) after “petroleum” insert “and development of the transportation and storage of greenhouse gases”.

Clause 4

BARONESS BYFORD

- 3A★ Page 3, line 12, after “from,” insert “its existence and”

LORD WHITTY
LORD GRANTCHESTER

- 4★ Page 3, line 13, at end insert –
“Decarbonisation of energy system
The need to meet the objectives of the Climate Change Act 2008 and the carbon budgets promulgated under that Act; together with obligations on greenhouse gases or decarbonisation agreed at European Union or international levels.”

BARONESS WORTHINGTON

- 5 Page 3, line 15, at end insert –
“Facilitating the development of carbon storage
The need for the UK to develop commercial geological carbon storage in order to support the achievement of the UK carbon budgets.”

- 6 Page 3, line 15, at end insert –
“Environmental considerations and climate change
The need for the OGA to address environmental considerations and to facilitate the pursuance of section 1 of the Climate Change Act 2008 in relation to relevant activities.”

LORD OXBURGH

- 7 Page 3, line 15, at end insert –
“Environmental security
The need for the United Kingdom to make safe and cost effective provision for the storage of carbon dioxide.”

BARONESS WORTHINGTON
LORD TEVERSON

- 8 Page 3, line 22, at end insert “, with particular emphasis on the development and promotion of carbon transport and storage”

BARONESS WORTHINGTON

- 9 Page 3, line 22, at end insert –
“Hierarchy of matters relating to decommissioning

**Amendment
No.**

Clause 4 – continued

The need for the re-use of viable North Sea infrastructure for carbon capture and storage projects to be considered prior to the decommissioning of such sites.”

LORD WHITTY
LORD GRANTCHESTER

- 10** Page 3, line 22, at end insert –
“*Energy efficiency*
The need to increase levels of energy efficiency within the energy supply system.”
- 11** Page 3, line 25, at end insert –
“*Carbon capture and storage policy*
The need for the OGA to ensure the delivery of cost effective carbon dioxide transport and storage infrastructure.”

Clause 5

BARONESS WORTHINGTON
LORD TEVERSON
LORD OXBURGH

- 12** Page 3, line 35, at end insert –
“() are necessary in order to inform the OGA’s role in developing and promoting carbon storage,”

LORD WHITTY
LORD GRANTCHESTER

- 13** Page 3, line 35, at end insert –
“() are necessary to meet the terms of the Climate Change Act 2008 or European or international obligations on climate change,”

BARONESS WORTHINGTON

- 14** Page 3, line 35, at end insert –
“() are necessary in order to facilitate, and comply with, the UK Government strategy on decarbonisation of the industrial sector,”

LORD WHITTY
LORD GRANTCHESTER

- 15** Page 4, line 5, at end insert –
“() Such directions may include requirements on the development of storage facilities of gas or oil; or storage of carbon dioxide as part of a carbon capture and storage scheme.”

Amendment
No.

After Clause 7

LORD BOURNE OF ABERYSTWYTH

16 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.
- (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.

Amendment
No.

After Clause 7 – continued

- (8) In this section “prescribed” means prescribed by regulations made by the Secretary of State.”

17 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.
- (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.

Amendment
No.

After Clause 7 – continued

- (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.”

18 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.
- (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.

Amendment
No.

After Clause 7 – continued

- (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*).

19 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 9

BARONESS WORTHINGTON
LORD TEVERSON

20 Page 6, line 11, at end insert “or carbon capture licence”

21★ Page 6, line 13, at end insert “or a carbon capture licence”

LORD OXBURGH

22 Page 6, line 13, at end insert “and in this context “petroleum licence” includes a licence granted for the purpose of storage of carbon dioxide”

23 Page 6, line 26, at end insert “and the objective of meeting the requirements for sub-surface storage of carbon dioxide in so far as these requirements are not met under the Petroleum Act 1998”

**Amendment
No.**

Clause 19

LORD WHITTY
LORD GRANTCHESTER

- 24** Page 11, line 25, after “which” insert “were or”
25 Page 11, line 26, leave out “and” and insert “and/or”

BARONESS WORTHINGTON
LORD TEVERSON
LORD OXBURGH

- 26** Page 11, line 33, at end insert –
“(2) For the avoidance of doubt, the provisions within this Chapter shall also apply for the purpose of data sharing with carbon capture and storage operators.”

Clause 21

BARONESS BYFORD

- 26A★** Page 12, line 15, after “licence” insert “where the licensee continues in business”

Clause 25

LORD WHITTY
LORD GRANTCHESTER

- 27** Page 14, line 9, leave out “a new licensee” and insert “either a new licensee or a new carbon dioxide storage licence holder”

BARONESS WORTHINGTON
LORD TEVERSON

- 28** Page 14, line 13, at end insert –
“() For the avoidance of doubt, an information and samples plan shall also provide for the sharing of such data with carbon capture and storage operators.”

Clause 26

LORD WHITTY
LORD GRANTCHESTER

- 29** Page 14, line 24, leave out “functions of the OGA which are relevant to the fulfilment of the principal objective” and insert “relevant functions of the OGA”

BARONESS WORTHINGTON
LORD TEVERSON

- 30** Page 14, line 25, after “objective” insert “or to the promotion and development of carbon capture transport and storage”

Amendment
No.

Clause 27

BARONESS BYFORD

30A★ Page 15, line 26, after “disclosed” insert “in defined circumstances”

Clause 28

LORD BOURNE OF ABERYSTWYTH

31 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

32 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

33 Insert the following new Part—

“PART 2A

INFRASTRUCTURE

Requirements to provide information

- (1) The Energy Act 2011 is amended as follows.

Amendment
No.

After Clause 56 – continued

- (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.”
- (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.””

34 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 assignment of an application made under section 82 from one person (“A”) to another (“B”), and

Amendment
No.

After Clause 56 – *continued*

- (b) the following are notified of the assignment or assignment –
 - (i) the owner of the pipeline or facility that is the subject of the application, and
 - (ii) the OGA.
- (2) A notice under subsection (1)(b) must –
 - (a) be in writing, and
 - (b) specify the date of the assignment or assignment.
- (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 assignment 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 assignment 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 assignment).
- (5) Subsection (3) does not apply in relation to any notice given under section 87 before the assignment or assignment (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 assignment 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).

Amendment
No.

After Clause 56 – continued

- (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).
- (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.””

After Clause 58

LORD OXBURGH
BARONESS WORTHINGTON

34A★ Insert the following new Clause –

“Carbon capture and storage

Within one year of the coming into force of this Act, the Government shall undertake a consultation on measures requiring extractors and importers of petroleum to contribute to the development of carbon capture and storage.”

Clause 59

LORD WHITTY

Lord Whitty gives notice of his intention to oppose the Question that Clause 59 stand part of the Bill.

Clause 60

LORD WALLACE OF TANKERNESS
BARONESS MADDOCK
LORD WHITTY

The above-named Lords give notice of their intention to oppose the Question that Clause 60 stand part of the Bill.

Amendment
No.

After Clause 60

LORD WHITTY
LORD GRANTCHESTER

35★ Insert the following new Clause –

“Renewable and other technologies

Within six months of the passing of this Act, the Secretary of State shall publish an assessment of the progress towards decarbonisation of energy supply, including a strategy for the development of renewables and a strategy for energy efficiency within the supply system.”

Clause 61

LORD BOURNE OF ABERYSTWYTH
BARONESS WORTHINGTON

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

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

[Amendments 37 to 42 are re-printed as Amendments 1A to 1F]

In the Title

LORD BOURNE OF ABERYSTWYTH

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

Energy Bill [HL]

REVISED
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE

4th September 2015

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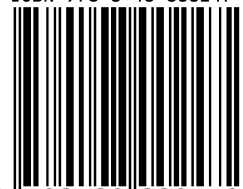
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