

Energy Bill [HL]

AMENDMENTS
TO BE MOVED
ON REPORT

Clause 2

LORD BOURNE OF ABERYSTWYTH

Page 2, line 19, leave out paragraph (c) and insert –

- “() for anything done by or in relation to a Minister of the Crown in connection with any functions transferred to be treated as done, or to be continued, by or in relation to the OGA, and
- () about the continuation of legal proceedings.”

Page 2, line 25, after “section” insert “and section (*Transfer of property, rights and liabilities to the OGA*)”

After Clause 2

LORD BOURNE OF ABERYSTWYTH

Insert the following new Clause –

“Transfer of property, rights and liabilities to the OGA

- (1) The Secretary of State may make one or more transfer schemes transferring qualifying property, rights and liabilities of a Minister of the Crown to the OGA.
- (2) A scheme made under this section may, in particular, make provision –
 - (a) for anything done by or in relation to a Minister of the Crown in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the OGA;
 - (b) for references to a Minister of the Crown in any agreement (whether written or not), instrument or other document relating to property, rights or liabilities transferred by the scheme to be treated as references to the OGA;
 - (c) about the continuation of legal proceedings;
 - (d) for transferring property, rights or liabilities which could not otherwise be transferred or assigned;

After Clause 2 – continued

- (e) for transferring property, rights or liabilities irrespective of any requirement for consent which would otherwise apply;
 - (f) for preventing a right of pre-emption, right of reverter, right of forfeiture, right to compensation or other similar right from arising or becoming exercisable as a result of the transfer of property, rights or liabilities;
 - (g) for dispensing with any formality in relation to the transfer of property, rights or liabilities by the scheme;
 - (h) for transferring property acquired, or rights or liabilities arising, after the scheme is made but before it takes effect;
 - (i) for apportioning property, rights or liabilities;
 - (j) for creating rights, or imposing liabilities, in connection with property, rights or liabilities transferred by the scheme;
 - (k) for requiring the OGA to enter into any agreement of any kind, or for a purpose, specified in or determined in accordance with the scheme.
- (3) Subsection (2)(b) does not apply to references in an enactment or a relevant authorisation.
- (4) In this section –
 “property” includes interests of any description, and
 “qualifying property, rights and liabilities” means property held, and rights and liabilities arising, in connection with functions which were functions of a Minister of the Crown and as a result of this Act have or are to become functions of the OGA, but does not include rights and liabilities relating to an individual’s employment in the civil service of the State.”

Insert the following new Clause –

“Transfer of staff to the OGA

- (1) The Secretary of State may make one or more transfer schemes under which persons who hold employment in the civil service of the State become employees of the OGA (but this is subject to any provision contained in the scheme that allows a person to object to becoming an employee of the OGA).
- (2) A scheme made under this section –
- (a) may make provision for giving full effect for a person’s transfer into the employment of the OGA as a result of the scheme, and
 - (b) may (in particular) include provision that is the same as, or similar to, the provision made by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) (whether or not those regulations would otherwise apply in relation to the transfer).”

Insert the following new Clause –

“Transfer schemes: supplementary

- (1) A scheme made under section (*Transfer of property, rights and liabilities to the OGA*) or (*Transfer of staff to the OGA*) may –
- (a) contain incidental, supplementary and consequential provision;

After Clause 2 – continued

- (b) make transitory or transitional provision or savings;
 - (c) make different provision for different purposes;
 - (d) make provision subject to exceptions.
- (2) Subject to subsection (3), the Secretary of State may modify a scheme made under section (*Transfer of property, rights and liabilities to the OGA*) or (*Transfer of staff to the OGA*).
- (3) If a transfer under the scheme has taken effect, any modification under subsection (2) that relates to the transfer may be made only with the agreement of the person (or persons) affected by the modification.
- (4) A modification takes effect from such date as the Secretary of State may specify; and that date may be the date when the original scheme came into effect.”

Insert the following new Clause –

“Pensions

- (1) The persons to whom section 1 of the Superannuation Act 1972 (persons to or in respect of whom benefits may be provided by schemes under that section) applies are to include the employees of the OGA.
- (2) Accordingly, in Schedule 1 to that Act (employment to which superannuation schemes may extend), in the list of other bodies, at the appropriate place insert –
“The Oil and Gas Authority.”
- (3) The employees of the OGA are to be treated for the purposes of paragraph (1)(b) of regulation 3 of the Public Service (Civil Servants and Others) Pensions Regulations 2014 (S.I. 2014/1964) as persons –
(a) to whom the scheme established under that regulation may potentially relate by virtue of paragraph (2) of that regulation, and
(b) in respect of whom the Minister for the Civil Service has made a determination under section 25(5) of the Public Service Pensions Act 2013.
- (4) The OGA must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to this section in the sums payable out of money provided by Parliament under the Superannuation Act 1972 and the Public Service Pensions Act 2013.”

Clause 3

LORD BOURNE OF ABERYSTWYTH

Page 3, line 11, at end insert –

- “(3) The Welsh Ministers may enter into an agreement with the OGA authorising the OGA to exercise any functions of the Welsh Ministers.
- (4) The reference in subsection (3) to functions does not include functions of making, confirming or approving subordinate legislation contained in a statutory instrument.

Clause 3 – continued

- (5) An agreement under subsection (3) does not affect the responsibility of the Welsh Ministers.
- (6) An agreement under subsection (3) does not prevent the Welsh Ministers from exercising a function to which the agreement relates.
- (7) The Welsh Ministers must arrange for a copy of any agreement under subsection (3) to be published in such manner as the Welsh Ministers consider appropriate for bringing it to the attention of the persons who, in the Welsh Ministers' opinion, are likely to be affected by it."

Clause 4

LORD BOURNE OF ABERYSTWYTH

Page 3, line 20, at end insert –

“Storage of carbon dioxide

The development and use of facilities for the storage of carbon dioxide, and of anything else (including, in particular, pipelines) needed in connection with the development and use of such facilities, and how that may assist the Secretary of State to meet the target in section 1 of the Climate Change Act 2008.”

Page 3, line 32, leave out “does not include any” and insert “means any function of the OGA, including any function under Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide), other than a”

Page 3, line 34, at end insert “or an agreement under section 3(3).”

Clause 7

LORD BOURNE OF ABERYSTWYTH

Page 5, line 10, leave out subsections (3) and (4) and insert –

- “(3) The Secretary of State may use protected material only for the purpose for which it is provided.
- (4) Protected material must not be disclosed –
 - (a) by the Secretary of State, or
 - (b) by a subsequent holder,
 except in accordance with this section.
- (5) For the purposes of subsection (4)(b), “subsequent holder”, in relation to protected material, means a person who receives protected material directly or indirectly from the Secretary of State by virtue of a disclosure, or disclosures, in accordance with this section.
- (6) Subsection (4) does not prohibit the Secretary of State from disclosing protected material so far as necessary for the purpose for which it was provided.

Clause 7 – continued

- (7) Subsection (4) does not prohibit a disclosure of protected material if –
- (a) the disclosure is required by virtue of an obligation imposed by or under any Act, or
 - (b) the OGA consents to the disclosure and, in a case where the protected material in question was provided to the OGA by or on behalf of another person, confirms that that person also consents to the disclosure.”

Clause 8

LORD BOURNE OF ABERYSTWYTH

Page 5, line 27, at end insert –

“() on an application made to it under section 12A of the Energy Act 1976;”

Page 6, line 16, at end insert –

- “() The OGA may not charge fees under this section for the exercise of any function which it is authorised to exercise by virtue of –
- (a) an order under section 69 of the Deregulation and Contracting Out Act 1994, or
 - (b) an agreement under section 3(3).”

Clause 9

LORD BOURNE OF ABERYSTWYTH

Page 6, line 37, after “exceed” insert “the sum of –”

Page 6, line 38, at end insert –

“() the costs incurred in respect of that period by the Lord Chancellor in connection with the provision of Tribunals to consider appeals against decisions of the OGA, and”

After Clause 11

LORD BOURNE OF ABERYSTWYTH

Insert the following new Clause –

“Review of OGA and guidance from Secretary of State

- (1) The Secretary of State must review the OGA’s performance for each review period.
- (2) The first review period –
 - (a) begins with the day on which section 1 comes into force, and
 - (b) ends at the end of the three year period beginning with that day, or on such earlier day as the Secretary of State may determine.

After Clause 11 – continued

- (3) Subsequent review periods –
 - (a) begin with the day (“the first day”) after the last day of the preceding review period,
 - (b) end at the end of the three year period beginning with the first day, or on such earlier day as the Secretary of State may determine.
- (4) A review must, in particular –
 - (a) assess how effective the OGA has been in exercising its functions, and
 - (b) consider the OGA’s functions under –
 - (i) Part 2, and
 - (ii) Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide),
 with regard to their fitness for purpose and scope.
- (5) As soon as practicable after a review period, the Secretary of State must –
 - (a) publish a report of the findings of the review for that period, and
 - (b) lay a copy of the report before Parliament.
- (6) As a result of the findings of a review, the Secretary of State may give guidance to the OGA about any matter relating to the OGA’s functions.
- (7) The OGA must take account of any such guidance in carrying out its functions.
- (8) For the purposes of this section “function” does not include any function which the OGA is authorised to exercise by virtue of –
 - (a) an order under section 69 of the Deregulation and Contracting Out Act 1994, or
 - (b) an agreement under section 3(3).”

Clause 12

LORD BOURNE OF ABERYSTWYTH

Page 9, line 15, leave out paragraph (d)

Page 9, line 24, at end insert –

- “(6) Chapter 6 makes provision about the disclosure of information and samples which have been obtained by the OGA under this Part.”

Clause 16

LORD BOURNE OF ABERYSTWYTH

Page 11, line 44, leave out from “parties” to “in” in line 45 and insert –

- “(a) under subsection (5)(a), or
 (b) by directions under subsection (5)(b),
 are sanctionable”

Clause 18

LORD BOURNE OF ABERYSTWYTH

Page 12, line 32, leave out “Directions given by the OGA to relevant parties” and insert “Requirements imposed by directions”

Clause 21

LORD BOURNE OF ABERYSTWYTH

Leave out Clause 21

Clause 23

LORD BOURNE OF ABERYSTWYTH

Page 15, line 17, at end insert –

- “(2) In this Chapter, “petroleum-related information” and “petroleum-related samples” include information or samples acquired or created as mentioned in subsection (1) which are relevant to activities carried out under a carbon dioxide storage licence.
- (3) In subsection (2) “carbon dioxide storage licence” means a licence granted under section 18 of the Energy Act 2008.”

Clause 29

LORD BOURNE OF ABERYSTWYTH

Page 17, line 36, after “licensee” insert “or to a person holding a carbon dioxide storage licence”

Page 17, line 37, at end insert –

- “() An information and samples plan prepared by the OGA under section 27(4) may not include provision under subsection (1)(b) for the transfer of information or samples to another person without the consent of the responsible person.”

Page 17, line 37, at end insert –

- “() Where an information and samples plan makes provision under subsection (1) for a person, other than the responsible person, to hold information or samples in accordance with the plan –
 - (a) the plan may, with the consent of that other person, impose requirements on that person in connection with the information and samples, and
 - (b) any such requirements are sanctionable in accordance with Chapter 5.”

Page 18, line 5, at end insert –

- “() In subsection (1)(b) “carbon dioxide storage licence” means a licence granted under section 18 of the Energy Act 2008.”

Clause 30

LORD BOURNE OF ABERYSTWYTH

Page 18, line 10, after “objective” insert “or which relate to activities carried out under a carbon dioxide storage licence”

Page 18, line 30, at end insert—

“() In subsection (1) “carbon dioxide storage licence” means a licence granted under section 18 of the Energy Act 2008.”

Clause 31

LORD BOURNE OF ABERYSTWYTH

Leave out Clause 31

Clause 32

LORD BOURNE OF ABERYSTWYTH

Leave out Clause 32

Clause 39

LORD BOURNE OF ABERYSTWYTH

Leave out Clause 39

Clause 42

LORD BOURNE OF ABERYSTWYTH

Page 25, line 16, leave out “Directions” and insert “Requirements imposed by directions”

Clause 43

LORD BOURNE OF ABERYSTWYTH

Page 25, line 28, leave out from “notice” to end of line 30 and insert “, in a case where it is appropriate to require such compliance and the failure to comply with the requirement has not already been remedied at the time the notice is given, and”

Page 25, leave out lines 34 and 35 and insert “end of the period of 28 days beginning with the day on which the financial penalty notice was given.”

Clause 46

LORD BOURNE OF ABERYSTWYTH

Page 26, line 24, leave out subsection (2) and insert –

“() A revocation notice may be given only in respect of a failure to comply with a petroleum-related requirement imposed on a licensee in that capacity.”

Page 26, line 34, leave out from “period” to end of line 36 and insert “of 28 days beginning with the day on which the revocation notice was given.”

Page 26, line 36, at end insert –

“() A revocation notice may not be given in circumstances where the licence to be revoked in accordance with the notice is one which, on the date the notice is given, the OGA would not have the power to grant.”

Page 26, line 38, leave out from “notice” to end of line 42 and insert –

- “(a) the rights granted to the person by the licence cease on the revocation date;
- (b) the revocation does not affect any obligation or liability imposed on or incurred by the person under the terms and conditions of the licence;
- (c) the terms and conditions of the licence apply as if the licence had been revoked in accordance with those terms and conditions, subject to section 55(2).”

Page 27, line 6, leave out “respect of” and insert “relation to”

Clause 47

LORD BOURNE OF ABERYSTWYTH

Page 27, line 12, leave out subsection (2) and insert –

“() An operator removal notice may be given only in respect of a failure to comply with a petroleum-related requirement imposed on an operator under a petroleum licence in that capacity.”

Page 27, line 30, leave out from “period” to end of line 32 and insert “of 28 days beginning with the day on which the operator removal notice was given.”

Page 27, line 32, at end insert –

“() An operator removal notice may not be given in circumstances where the licence under which the operator operates is one which, on the date the notice is given, the OGA would not have the power to grant.”

Clause 49

LORD BOURNE OF ABERYSTWYTH

Page 28, line 41, leave out subsection (2)

Page 28, line 44, leave out “in respect of the appeal” and insert “to confirm, vary or cancel the notice.”

Clause 49 – continued

Page 28, line 44, at end insert –

- “() Where, on an appeal made in relation to a sanction notice –
- (a) the Tribunal makes a decision to confirm or vary the notice, and
 - (b) an appeal is or may be made in relation to that decision,
- the Tribunal, or the Upper Tribunal, may further suspend the effect of the notice pending a decision which disposes of proceedings on such an appeal.”

Clause 51

LORD BOURNE OF ABERYSTWYTH

Page 30, line 18, leave out from “decision” to end of line 22 and insert “to revoke a licence or to require the removal of an operator the Tribunal may –

- (a) confirm the decision,
 - (b) vary the decision by changing the revocation date or the removal date, as the case may be, or
 - (c) quash the decision, and
- confirm, vary or cancel the sanction notice in question accordingly.”

Clause 53

LORD BOURNE OF ABERYSTWYTH

Page 31, line 2, at end insert –

- “() If the sanction notice given is a financial penalty notice which does not require compliance with the petroleum-related requirement, no further sanction notices may be given in respect of the failure to comply.”

Page 31, line 3, leave out “an enforcement notice or a financial penalty notice” and insert –

- “(a) an enforcement notice, or
- (b) a financial penalty notice which requires compliance with the petroleum-related requirement.”

Clause 58

LORD BOURNE OF ABERYSTWYTH

Leave out Clause 58

After Clause 60

LORD BOURNE OF ABERYSTWYTH

Insert the following new Clause –

“CHAPTER 6

DISCLOSURE

*General prohibition***Prohibition on disclosure**

Protected material must not be disclosed –

- (a) by the OGA, or
 - (b) by a subsequent holder,
- except in accordance with this Chapter.”

Insert the following new Clause –

“Meaning of “protected material” and related terms

- (1) In this Chapter “protected material” means information or samples which have been obtained by the OGA under this Part.
- (2) In this Chapter –
 - “original owner”, in relation to protected material provided to the OGA under this Part, means the person by or on whose behalf, the protected material was so provided;
 - “subsequent holder”, in relation to protected material, means a person holding protected material who has received it directly or indirectly from the OGA by virtue of a disclosure, or disclosures, in accordance with this Chapter.
- (3) References to disclosing protected material include references to making the protected material available to other persons (in a case where the protected material includes samples).”

Insert the following new Clause –

*“Permitted disclosures***Disclosure by OGA to certain persons**

- (1) Section (*Prohibition on disclosure*) does not prohibit a disclosure of protected material by the OGA which –
 - (a) is made to a person mentioned in column 1 of the table below,
 - (b) is made for the purpose of facilitating the carrying out of that person’s functions, and
 - (c) is a disclosure of information obtained by the OGA under a Chapter mentioned in the corresponding entry of column 2 of the table.

<i>Column 1</i>	<i>Column 2</i>
A Minister of the Crown	Chapters 2 to 5
Her Majesty’s Revenue and Customs	Chapters 2 to 4

After Clause 60 – continued

<i>Column 1</i>	<i>Column 2</i>
The Competition and Markets Authority	Chapters 2 to 5
The Scottish Ministers	Chapter 3
The Welsh Ministers	Chapter 3
A Northern Ireland Department	Chapter 3
The Coal Authority	Chapter 3
The Office for Budget Responsibility	Chapter 3
An enforcing authority	Chapters 2 to 5
The competent authority under article 8 of the Offshore Safety Directive	Chapters 2 to 5
The Statistics Board	Chapters 2 to 5

- (2) In the table –
- “enforcing authority” has the same meaning as in Part 1 of the Health and Safety at Work etc Act 1974 (see section 18(7)(a) of that Act);
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
 - “Offshore Safety Directive” means Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations.
- (3) Section (*Prohibition on disclosure*) does not prohibit a disclosure of protected material by the OGA which –
- (a) is a disclosure of protected material obtained by it under Chapter 3 (information and samples),
 - (b) is made to the Natural Environment Research Council, or any other similar body carrying on geological activities, and
 - (c) is made for the purpose of enabling the body to prepare and publish reports and surveys of a general nature using information derived from the protected material.
- (4) A person to whom protected material is disclosed by virtue of subsection (1) or (3) may use the protected material only for the purpose mentioned in subsection (1)(b) or (3)(c) (as the case may be).
- (5) Section (*Prohibition on disclosure*) does not prohibit such a person from disclosing the protected material so far as necessary for that purpose.
- (6) The Secretary of State may by regulations amend the table in subsection (1) –
- (a) to remove a person from column 1,
 - (b) to add to column 1 a person to whom subsection (7) applies, or
 - (c) to add, remove or change entries in column 2.
- (7) This subsection applies to –
- (a) persons holding office under the Crown;

After Clause 60 – continued

- (b) persons in the service or employment of the Crown;
- (c) persons acting on behalf of the Crown;
- (d) government departments;
- (e) publicly owned companies as defined in section 6 of the Freedom of Information Act 2000.”

Insert the following new Clause –

“Disclosure required for returns and reports prepared by OGA

- (1) Section (*Prohibition on disclosure*) does not prohibit the OGA from using protected material obtained by the OGA under Chapter 3 (information and samples) for the purpose of –
 - (a) preparing such returns and reports as may be required under obligations imposed by or under any Act;
 - (b) preparing and publishing reports and surveys of a general nature using information derived from the protected material.
- (2) Section (*Prohibition on disclosure*) does not prohibit the OGA from disclosing protected material so far as necessary for those purposes.”

Insert the following new Clause –

“Disclosure in exercise of certain OGA powers

- (1) Section (*Prohibition on disclosure*) does not prohibit a disclosure of protected material if –
 - (a) the protected material was obtained by the OGA under Chapter 2 (disputes), and
 - (b) the disclosure is made in the exercise of the OGA’s powers under section 18(6) (publication of recommendations for resolving disputes).
- (2) Section (*Prohibition on disclosure*) does not prohibit a disclosure of protected material if it is made in the exercise of the OGA’s powers under section 52 (publication of details of sanctions).
- (3) Section (*Prohibition on disclosure*) does not prohibit a disclosure of protected material which is permitted by section (*International oil and gas agreements: information exchange*) (international oil and gas agreements: information exchange).”

Insert the following new Clause –

“Disclosure after specified period

- (1) Section (*Prohibition on disclosure*) does not prohibit protected material obtained by the OGA under Chapter 3 (information and samples) from being –
 - (a) published, or
 - (b) made available to the public (in a case where the protected material includes samples),by the OGA or a subsequent holder at such time as may be specified in regulations made by the Secretary of State.

After Clause 60 – continued

- (2) Regulations under subsection (1) may include provision permitting protected material to be published, or made available to the public, immediately after it is provided to a person.
- (3) Before making regulations under subsection (1), the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (4) Subsection (3) does not apply if the Secretary of State is satisfied that consultation is unnecessary having regard to consultation carried out by the OGA in relation to what time should be specified in regulations under subsection (1).
- (5) In determining the time to be specified in respect of protected material in regulations under subsection (1), 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 (as defined in section 23);
 - (d) any other factors the Secretary of State considers relevant.
- (6) In balancing the factors mentioned in subsection (5)(a) to (d), the Secretary of State must take into account the principal objective.
- (7) For the purposes of subsection (5)(a), the owner of protected material is the person by whom, or on whose behalf, the protected material was provided to the OGA under Chapter 3 (information and samples).”

Insert the following new Clause –

“Disclosure with appropriate consent

- (1) Section (*Prohibition on disclosure*) does not prohibit a disclosure of protected material if it is made with the appropriate consent.
- (2) For this purpose a disclosure is made with the appropriate consent if –
 - (a) in the case of disclosure by the OGA, the original owner consents to the disclosure;
 - (b) in the case of disclosure by a subsequent holder –
 - (i) the OGA consents to the disclosure, and
 - (ii) in a case where the protected material in question was provided to the OGA under this Part, the OGA confirms that the original owner of the material also consents to the disclosure.”

Insert the following new Clause –

“Disclosure required by legislation

Section (*Prohibition on disclosure*) does not prohibit a disclosure of protected material required by virtue of an obligation imposed by or under any Act.”

After Clause 60 – continued

Insert the following new Clause –

“Disclosure for purpose of proceedings

- (1) Section (*Prohibition on disclosure*) does not prohibit a disclosure of protected material by the OGA for the purposes of, or in connection with –
 - (a) civil proceedings, or
 - (b) arbitration proceedings.
- (2) Section (*Prohibition on disclosure*) does not prohibit a disclosure of protected material by the OGA for the purposes of, or in connection with –
 - (a) the investigation or prosecution of criminal offences, or
 - (b) the prevention of criminal activity.”

BARONESS LIDDELL OF COATDYKE

Insert the following new Clause –

“Carbon capture and storage strategy

- (1) It is the duty of the Secretary of State –
 - (a) to set and promote a national strategy for the development of carbon capture and storage (“the strategy”) at the scale and pace required to deliver the expected carbon dioxide emissions reductions necessary to support delivery of the fifth, and subsequent, carbon budgets, and
 - (b) to report on the implementation of the strategy by 2020, and every three years thereafter.
- (2) The Secretary of State shall develop the strategy by 2017 with the input from the Chancellor of the Exchequer, the Secretary of State for Business, Innovation and Skills, the Chief Executive of the Oil and Gas Authority and other relevant stakeholders including the carbon capture and storage industry.
- (3) The strategy will outline the Government’s approach to –
 - (a) the development of carbon dioxide transport and storage infrastructure;
 - (b) providing sufficient market signal to the carbon capture and storage industry and finance community;
 - (c) the actions to be taken before 2020 to support the implementation of the strategy after 2020;
 - (d) the responsibility of relevant Government departments with respect to the implementation of the strategy; and
 - (e) appropriate funding mechanisms needed to support the delivery of the strategy.”

After Clause 62

LORD BOURNE OF ABERYSTWYTH

Insert the following new Clause –

“Abandonment of offshore installations

Schedule (*Abandonment of offshore installations*) makes provision about the abandonment of offshore installations.”

Insert the following new Clause –

“Duty to act in accordance with strategy: decommissioning and alternatives

- (1) Part 1A of the Petroleum Act 1998 (maximising economic recovery of UK petroleum) is amended as follows.
- (2) In section 9A (the principal objective and the strategy), in subsection (1)(b), after paragraph (iv) insert –
 - “(v) owners of relevant offshore installations.”
- (3) In section 9C (carrying out of certain petroleum industry activities) –
 - (a) omit subsection (3), and
 - (b) after subsection (4) insert –
 - “(5) A person who is the owner of –
 - (a) a relevant offshore installation, or
 - (b) upstream petroleum infrastructure,
 must act in accordance with the current strategy or strategies when planning and carrying out the activities mentioned in subsection (6).
 - (6) Those activities are –
 - (a) the person’s activities as the owner of the installation or infrastructure (including the development, construction, deployment and use of the infrastructure or installation);
 - (b) the abandonment or decommissioning of the installation or infrastructure.
 - (7) For the purposes of subsection (5), planning the activities mentioned in subsection (6)(b) includes the preliminary stage of –
 - (a) deciding whether or when to proceed with the proposed abandonment or decommissioning, and
 - (b) considering alternative measures to abandonment or decommissioning such as re-use or preservation.”
- (4) After section 9H insert –

“9HA “Relevant offshore installations” and their owners

- (1) For the purposes of this Part an offshore installation is a relevant offshore installation if and in so far as it is used in relation to petroleum within subsection (2) (including such petroleum after it has been got).

After Clause 62—*continued*

- (2) Petroleum is within this subsection if it is petroleum which for the time being exists in its natural condition in strata beneath—
 - (a) the territorial sea adjacent to Great Britain, or
 - (b) the sea in any area designated under section 1(7) of the Continental Shelf Act 1964.
- (3) In this Part “owner”, in relation to a relevant offshore installation, means—
 - (a) a person in whom the installation is vested, and
 - (b) a lessee and any person occupying or controlling the installation.”
- (5) In section 9I (other definitions), at the appropriate place insert—
 - ““offshore installation” has the same meaning as in Part 4 (see section 44);”;
 - ““owner”, in relation to a relevant offshore installation, has the meaning given in section 9HA;”;
 - ““relevant offshore installation” has the meaning given in section 9HA;”;
 - ““submarine pipeline” has the meaning given in section 45;”.

Insert the following new Clause—

“Part 1A of the Petroleum Act 1998: Northern Ireland

- (1) Part 1A of the Petroleum Act 1998 (maximising economic recovery of UK petroleum), as amended by this Act, extends to Northern Ireland (as well as to England and Wales and Scotland).
- (2) In that Act, for section 9H substitute—

“9H “Upstream petroleum infrastructure” and its owners

- (1) In this Part “upstream petroleum infrastructure” means anything that for the purposes of section 82(1) of the Energy Act 2011 is—
 - (a) a relevant upstream petroleum pipeline,
 - (b) a relevant oil processing facility, or
 - (c) a relevant gas processing facility,
 if and in so far as it is used in relation to petroleum within subsection (2) (including such petroleum after it has been got).
- (2) Petroleum is within this subsection if it is petroleum which for the time being exists in its natural condition in strata beneath—
 - (a) the territorial sea adjacent to Great Britain, or
 - (b) the sea in any area designated under section 1(7) of the Continental Shelf Act 1964.
- (3) In this Part “owner”, in relation to upstream petroleum infrastructure, means—
 - (a) a person in whom the pipeline or facility is vested;
 - (b) a lessee and any person occupying or controlling the pipeline or facility; and
 - (c) any person who has the right to have things conveyed by the pipeline or processed by the facility.”

After Clause 62—continued

Insert the following new Clause—

“International oil and gas agreements: information exchange

- (1) This section applies where—
 - (a) there is a treaty or agreement in force between the government of the United Kingdom and the government of a territory outside the United Kingdom (“the overseas territory”) concerning cooperation in relation to oil and gas activities, and
 - (b) the treaty or agreement includes arrangements for the exchange of information between the two governments (“information exchange arrangements”).
- (2) If it appears to the Secretary of State that adequate safeguards are in place, information held by the Secretary of State may be disclosed so far as the Secretary of State considers necessary for the purpose of giving effect to the treaty or agreement in question.
- (3) If it appears to the OGA that adequate safeguards are in place, information held by the OGA may be disclosed so far as the OGA considers necessary for the purpose of giving effect to the treaty or agreement in question.
- (4) For the purposes of this section adequate safeguards are in place if the information exchange arrangements and the law in force in the overseas territory are such as to ensure that information disclosed to the government of the overseas territory under this section may be disclosed by that government only—
 - (a) with the consent of the government of the United Kingdom, or
 - (b) so far as necessary for the purpose of preparing and publishing reports of a general nature.
- (5) References in this section to the OGA are to the OGA acting as a representative of the government of the United Kingdom for the purposes of the agreement with the overseas territory.”

Clause 67

LORD BOURNE OF ABERYSTWYTH

Page 39, line 24, leave out paragraph (b)

Page 39, line 25, at end insert “or

- () regulations under section (*Disclosure permitted after specified period*)(1),”

Page 39, line 25, at end insert—

- “() regulations under section (*Disclosure by OGA to certain persons*)(6),”

After Clause 67

LORD BOURNE OF ABERYSTWYTH

Insert the following new Clause –

“Regulations and orders: disapplication of requirements to consult the OGA

- (1) This section applies where the Secretary of State is required by this Act, the Petroleum Act 1998 or the Energy Act 2008 to consult the OGA before exercising a power to make regulations or an order.
- (2) The requirement does not apply in relation to the first exercise of the power in the period of one year beginning with the date on which section 1 comes into force.”

Clause 69

LORD BOURNE OF ABERYSTWYTH

Page 40, line 3, after “amendment” insert “(other than an amendment of Part 1A of the Petroleum Act 1998)”

The Schedule

LORD BOURNE OF ABERYSTWYTH

Page 41, line 4, at end insert –

“Energy Act 1976

- A1 The Energy Act 1976 is amended as follows.
- A2 (1) Section 12 (disposal of gas by flaring, etc) is amended as follows.
- (2) After subsection (2) insert –
 - “(2A) Disposal of gas by flaring, or by releasing it unignited into the atmosphere, does not require consent under this section if consent –
 - (a) is required under section 12A (disposal of gas by flaring etc: OGA’s functions), or
 - (b) would be required under that section but for subsection (3) of that section.”
 - (3) At the end of the heading insert “: Secretary of State’s functions”.

A3 After section 12 insert –

“12A Disposal of gas by flaring, etc: OGA’s functions

- (1) The OGA’s consent is required for natural gas to be disposed of (whether at source or elsewhere) –
 - (a) by flaring, or by releasing it unignited into the atmosphere, from anything that for the purposes of section 82(1) of the Energy Act 2011 is a relevant oil processing facility or a relevant gas processing facility, or

The Schedule – continued

- (b) by releasing it unignited into the atmosphere in connection with activities carried out under a licence granted under –
 - (i) section 3 of the Petroleum Act 1998, or
 - (ii) section 2 of the Petroleum (Production) Act 1934.
- (2) This section applies to all natural gas of the United Kingdom, whether obtained there or in territorial waters, or in areas designated under the Continental Shelf Act 1964, except gas conveyed through pipes to premises by a gas transporter within the meaning of Part 1 of the Gas Act 1986.
- (3) Disposal of gas does not require consent under this section if –
 - (a) it is necessary in order to reduce or avoid the risk of injury to any person,
 - (b) the risk could not reasonably have been foreseen in time to reduce or avoid it otherwise than by means of the disposal, and
 - (c) it was not reasonably practicable to obtain consent under this section in the time available.
- (4) A person who disposes of gas in cases where the consent of the OGA would have been required but for subsection (3) must inform the OGA of that disposal as soon as practicable after the disposal takes place.
- (5) The OGA’s consent under this section –
 - (a) may be given only by reference to particular cases, and
 - (b) may be made subject to conditions which may, in particular, be framed by reference to the description or origin of the gas, or the quantities to be disposed of.

12B Sanctions for failure to comply with section 12A

- (1) The requirements imposed by subsections (1) and (4) of section 12A are 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 petroleum-related requirements.
 - (2) But the OGA may not give an enforcement notice, a revocation notice or an operator removal notice under that Chapter by virtue of this section.”
- A4 (1) Section 18 (administration, enforcement and offences) is amended as follows.
- (2) In subsection (2)(a), for “9 and 12” substitute “9, 12 and 12A”.
 - (3) In subsection (3) –
 - (a) in paragraph (a), for “9 or 12” substitute “9, 12 or 12A”, and
 - (b) in paragraph (b), after “Secretary of State” insert “or the OGA”.
- A5 In section 21 (interpretation), after the definition of “natural gas” insert –
 ““the OGA” means the Oil and Gas Authority;”.

The Schedule – continued

Page 41, line 10, at end insert –

“() in paragraph (b), omit the words from “to the extent” to the end,”

Page 41, line 14, at end insert –

“3A After section 9B insert –

“9BA Exercise of certain functions of the Secretary of State

- (1) The Secretary of State must act in accordance with the current strategy or strategies when exercising the functions mentioned in subsection (2).
- (2) Those functions are functions under Part 4 to the extent that they concern reduction of the costs of abandonment of offshore installations and submarine pipelines (including the reduction of such costs by means of the timing of measures proposed in abandonment programmes and by the inclusion in such programmes of provision for collaboration with other persons).”

After the Schedule**LORD BOURNE OF ABERYSTWYTH**

Insert the following new Schedule –

“SCHEDULE**ABANDONMENT OF OFFSHORE INSTALLATIONS**

Petroleum Act 1998

- 1 Part 4 of the Petroleum Act 1998 (abandonment of offshore installations) is amended as follows.
- 2 Before section 29 insert –
 - “28A Restriction on abandonment**
 - (1) A person to whom a notice may be given under section 29(1) in relation to an offshore installation or submarine pipeline may not abandon, or begin or continue the decommissioning of, the installation or pipeline unless an abandonment programme approved by the Secretary of State has effect in relation to the installation or pipeline.
 - (2) A person who without reasonable excuse contravenes subsection (1) is guilty of an offence.”
- 3 (1) Section 29 (preparation of programmes) is amended as follows.
 - (2) After subsection (1) insert –
 - “(1A) The power to give a notice under subsection (1) is exercisable –**
 - (a) on the Secretary of State’s own motion, or

After the Schedule – continued

- (b) at the request of any person to whom the notice may be given (whether or not the notice is given to that person).”
- (3) After subsection (2) insert –
 - “(2A) A person to whom a notice under subsection (1) is given –
 - (a) must consult the OGA before submitting the abandonment programme to the Secretary of State, and
 - (b) must frame the programme so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying it out is kept to the minimum that is reasonably practicable in the circumstances.
 - (2B) When consulted under paragraph (a) of subsection (2A) the OGA must (in particular) consider and advise on –
 - (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
 - (b) how to comply with paragraph (b) of that subsection.”
- (4) In subsection (3), after “such” insert “other”.
- 4 (1) Section 32 (approval of programmes) is amended as follows.
 - (2) After subsection (2) insert –
 - “(2A) The modifications or conditions may (in particular) include modifications or conditions –
 - (a) which are intended (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) to reduce the total cost of carrying out the programme, provided that they do not increase the total costs to be met by any person who is to be subject to obligations under the programme or under any other abandonment programme;
 - (b) requiring the persons who submitted the programme to carry out and publish or make available to the Secretary of State and the OGA a review of the programme and its implementation including, where relevant, recommendations as to the contents and implementation of future abandonment programmes.”
 - (3) At the end insert –
 - “(6) Before reaching a decision under this section the Secretary of State must –
 - (a) consult the OGA, and
 - (b) take into account the cost of carrying out the programme that has been submitted and whether it is possible to reduce that cost by modifying the programme or making it subject to conditions.

After the Schedule – continued

- (7) When consulted under subsection (6)(a), the OGA must (in particular) consider and advise on –
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
 - (b) whether section 29(2A)(b) has been complied with and, if it has not been, modifications or conditions that would enable it to be complied with.”
- 5 In section 33 (failure to submit programme), after subsection (3) insert –
- “(3A) When preparing an abandonment programme under this section the Secretary of State must –
- (a) consult the OGA, and
 - (b) frame the programme so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying it out is kept to the minimum that is reasonably practicable in the circumstances.
- (3B) When consulted under paragraph (a) of subsection (3A), the OGA must (in particular) consider and advise on –
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
 - (b) how to comply with the requirement in paragraph (b) of that subsection.”
- 6 (1) Section 34 (revision of programmes) is amended as follows.
- (2) After subsection (4) insert –
- “(4A) A person who makes a proposal under subsection (1) that is likely to have an effect on the cost of carrying out the programme must frame it so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying out the programme as proposed to be altered is kept to the minimum that is reasonably practicable in the circumstances.
- (4B) Where the Secretary of State makes a proposal under subsection (1)(a) the purpose of which is to reduce the total cost of carrying out a programme, the proposal may not increase the total costs to be met by any person who is to be subject to obligations under the programme or under any other abandonment programme.”
- (3) After subsection (7) insert –
- “(7A) If it appears to the Secretary of State that what is proposed under subsection (1) is likely to have an effect on the cost of carrying out the programme, the Secretary of State must, before making a determination under subsection (7) –
- (a) consult the OGA, and
 - (b) take that effect into account.

After the Schedule – continued

- (7B) When consulted under subsection (7A)(a) the OGA must (in particular) consider and advise on –
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
 - (b) whether subsection (4A) applies and, if so, whether it has been complied with.”

7 After section 34 insert –

“34A Amendment of programmes

- (1) This section applies where an abandonment programme approved by the Secretary of State includes provision by virtue of which the programme may be amended.
- (2) A person who proposes to make an amendment under such a provision that is likely to have an effect on the cost of carrying out the programme must frame the amendment so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying out the programme as proposed to be amended is kept to the minimum that is reasonably practicable in the circumstances.
- (3) If it appears to the person who proposes to make the amendment that subsection (2) applies, the person must consult the OGA before making the amendment.
- (4) When consulted under subsection (3) the OGA must (in particular) consider and advise on –
 - (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
 - (b) whether subsection (2) applies and, if so, whether it has been complied with.
- (5) Any person who has the function of approving amendments made under a provision mentioned in subsection (1) must, when exercising the function, take into account the effect of the proposed amendment on the cost of carrying out the programme.”

8 After section 36 insert –

“36A Reduction of costs of carrying out programmes

- (1) This section applies where an abandonment programme approved by the Secretary of State has effect in relation to an installation or pipeline.
- (2) The Secretary of State may, for the purpose of reducing the total cost of carrying out the programme, by written notice require any person who submitted the programme to take, or refrain from taking, action of a description specified in the notice.

After the Schedule – continued

- (3) The notice may, in particular, require –
- (a) changes to the times at which the measures proposed in the programme are to be carried out;
 - (b) the persons who are under a duty to secure that the programme is carried out to collaborate with other persons.
- (4) The programme, and any condition to which it is subject, has effect subject to any notice given under this section.
- (5) A notice given under this section may not increase the total costs to be met by any person who is to be subject to obligations under the programme or under any other abandonment programme.
- (6) The Secretary of State may not give a notice to a person under this section without first giving the person an opportunity to make written representation as to whether the notice should be given.
- (7) A person to whom a notice is given under this section who without reasonable excuse fails to comply with the notice is guilty of an offence.
- (8) If a notice under this section is not complied with, the Secretary of State may –
- (a) do anything necessary to give effect to the notice, and
 - (b) recover from the person to whom the notice was given any expenditure incurred under paragraph (a).
- (9) A person liable to pay any sum to the Secretary of State by virtue of subsection (8) must also pay interest on that sum for the period beginning with the day on which the Secretary of State notified the person of the sum payable and ending with the date of payment.
- (10) The rate of interest payable in accordance with subsection (9) is a rate determined by the Secretary of State as comparable with commercial rates.”
- 9 In section 37 (default in carrying out programmes), after subsection (1) insert –
- “(1A) If it appears to the Secretary of State that the proposed remedial action is likely to have an effect on the cost of carrying out the programme, the Secretary of State must –
- (a) consult the OGA before giving a notice under subsection (1), and
 - (b) take that effect into account when deciding whether to give the notice.
- (1B) When consulted under subsection (1A)(a), the OGA must consider and advise on the likely effect of the proposed remedial action on the cost of carrying out the programme.”
- 10 In section 40 (offences: penalties) –
- (a) after “section” insert “28A,” and
 - (b) after “33,” insert “36A,”.

After the Schedule – continued

- 11 (1) Section 41 (offences: general) is amended as follows.
- (2) In subsection (1) –
- (a) after “section” insert “28A,” and
- (b) after “33,” insert “36A.”
- (3) In subsection (2) –
- (a) after “section” insert “28A,” and
- (b) after “33,” insert “36A.”
- (4) In subsection (3) –
- (a) after “section” insert “28A,” and
- (b) after “33,” insert “36A.”
- (5) In subsection (5), after “section” insert “28A, 36A or”.
- 12 (1) Section 42 (validity of Secretary of State’s acts) is amended as follows.
- (2) In subsection (2), after paragraph (e) insert –
- “(ea) the giving of a notice under section 36A(2);”.
- (3) In subsection (5), after paragraph (e) insert –
- “(ea) in relation to the giving of a notice under section 36A(2), means the requirements of section 36A(6);”.

Energy Act 2008

- 13 (1) Section 30 of the Energy Act 2008 (abandonment of carbon storage installations) is amended as follows.
- (2) In subsection (1), after “subsections” insert “(1A),”.
- (3) After that subsection insert –
- “(1A) For the purposes of subsection (1), the amendments made to Part 4 of the 1998 Act by Schedule (*Abandonment of offshore installations*) to the Energy Act 2016 are to be disregarded.”
- (4) For subsection (4A) substitute –
- “(4A) The power in subsection (4) –
- (a) may (in particular) be exercised to make modifications corresponding to the amendments made by Schedule (*Abandonment of offshore installations*) to the Energy Act 2016, and
- (b) is subject to section 30A.””

In the Title

LORD BOURNE OF ABERYSTWYTH

Line 2, after “infrastructure;” insert “to make provision about the abandonment of offshore installations, submarine pipelines and upstream petroleum infrastructure;”

In the Title – *continued*

Line 2, after “infrastructure;” insert “to extend Part 1A of the Petroleum Act 1998 to Northern Ireland;”

Line 2, after “infrastructure;” insert “to make provision about the disclosure of information for the purposes of international agreements;”

Energy Bill [HL]

AMENDMENTS
TO BE MOVED
ON REPORT

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