

Energy Bill [HL]

REVISED
SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 19th October 2015, as follows –

Clauses 65 to 69
Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 66

LORD BOURNE OF ABERYSTWYTH

78B Page 38, line 5, leave out subsection (1)

BARONESS WORTHINGTON
LORD GRANTCHESTER

78C Page 38, line 5, at end insert –

“() In section 32LA(1) after “order” insert “subject to subsection (2A)”.

() after section 32LA(2) insert –

“(2A) The power to make a renewables obligation closure order applying to Scotland may only be exercised by Scottish Ministers.””

LORD BOURNE OF ABERYSTWYTH

78D Page 38, line 6, at beginning insert “In Part 1 of the Electricity Act 1989 (electricity supply),”

78E Page 38, line 10, leave out “which is accredited after that date”

Amendment No.	Clause 66 – <i>continued</i>
78F	Page 38, line 11, at end insert – “(1A) Subsection (1) does not apply to electricity generated in the circumstances set out in any one or more of sections 32LD to 32LL.”
78G	Page 38, line 12, leave out “subsection (1)” and insert “this section and sections 32LD to 32LL”
78H	Page 38, leave out lines 13 to 15
78J	Page 38, leave out lines 22 and 23
78K	Page 38, line 29, leave out “regulations under this section” and insert “sections 32LD to 32LL”
78L	Page 38, leave out lines 34 to 36
78M	Page 38, line 37, leave out subsection (3)
78N	Page 39, line 7, leave out “accredited after 31st March 2016”
78P	Page 39, line 9, leave out “accredited after 31st March 2016”

BARONESS WORTHINGTON
LORD GRANTCHESTER
LORD WALLACE OF TANKERNESS
LORD TEVERSON

78Q Leave out Clause 66

After Clause 66

LORD BOURNE OF ABERYSTWYTH

78R	<p>Insert the following new Clause –</p> <p>“Onshore wind power: circumstances in which certificates may be issued after 31 March 2016</p> <p>(1) Part 1 of the Electricity Act 1989 (electricity supply) is amended as follows.</p> <p>(2) After section 32LC (inserted by section 66) insert –</p> <p>“32LD Onshore wind generating stations accredited, or additional capacity added, on or before 31 March 2016</p> <p>The circumstances set out in this section are where the electricity is –</p> <p>(a) generated by an onshore wind generating station which was accredited on or before 31 March 2016, and</p> <p>(b) generated using –</p> <p>(i) the original capacity of the station, or</p> <p>(ii) additional capacity which in the Authority’s view first formed part of the station on or before 31 March 2016.</p>
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Amendment
No.

After Clause 66 – *continued*

32LE Onshore wind generating stations accredited, or additional capacity added, between 1 April 2016 and 31 March 2017: grid or radar delay condition met

The circumstances set out in this section are where the electricity is –

- (a) generated using the original capacity of an onshore wind generating station –
 - (i) which was accredited during the period beginning with 1 April 2016 and ending with 31 March 2017, and
 - (ii) in respect of which the grid or radar delay condition is met, or
- (b) generated using additional capacity of an onshore wind generating station, where –
 - (i) the station was accredited on or before 31 March 2016,
 - (ii) in the Authority's view, the additional capacity first formed part of the station during the period beginning with 1 April 2016 and ending with 31 March 2017, and
 - (iii) the grid or radar delay condition is met in respect of the additional capacity.

32LF Onshore wind generating stations accredited, or additional capacity added, on or before 31 March 2017: approved development condition met

The circumstances set out in this section are where the electricity is –

- (a) generated using the original capacity of an onshore wind generating station –
 - (i) which was accredited on or before 31 March 2017, and
 - (ii) in respect of which the approved development condition is met, or
- (b) generated using additional capacity of an onshore wind generating station, where –
 - (i) the station was accredited on or before 31 March 2016,
 - (ii) in the Authority's view, the additional capacity first formed part of the station on or before 31 March 2017, and
 - (iii) the approved development condition is met in respect of the additional capacity.

Amendment
No.

After Clause 66 – continued

32LG Onshore wind generating stations accredited, or additional capacity added, between 1 April 2017 and 31 March 2018: grid or radar delay condition met

The circumstances set out in this section are where the electricity is –

- (a) generated using the original capacity of an onshore wind generating station –
 - (i) which was accredited during the period beginning with 1 April 2017 and ending with 31 March 2018,
 - (ii) in respect of which the approved development condition is met, and
 - (iii) in respect of which the grid or radar delay condition is met, or
- (b) generated using additional capacity of an onshore wind generating station, where –
 - (i) the station was accredited on or before 31 March 2016,
 - (ii) in the Authority’s view, the additional capacity first formed part of the station during the period beginning with 1 April 2017 and ending with 31 March 2018,
 - (iii) the approved development condition is met in respect of the additional capacity, and
 - (iv) the grid or radar delay condition is met in respect of the additional capacity.

32LH Onshore wind generating stations accredited, or additional capacity added, between 1 April 2017 and 31 December 2017: investment freezing condition met

The circumstances set out in this section are where the electricity is –

- (a) generated using the original capacity of an onshore wind generating station –
 - (i) which was accredited during the period beginning with 1 April 2017 and ending with 31 December 2017, and
 - (ii) in respect of which both the approved development condition and the investment freezing condition are met, or
- (b) generated using additional capacity of an onshore wind generating station, where –
 - (i) the station was accredited on or before 31 March 2016,
 - (ii) in the Authority’s view, the additional capacity first formed part of the station during the period beginning with 1 April 2017 and ending with 31 December 2017, and
 - (iii) both the approved development condition and the investment freezing condition are met in respect of the additional capacity.

Amendment
No.

After Clause 66 – continued

32LI Onshore wind generating stations accredited, or additional capacity added, between 1 January 2018 and 31 December 2018: grid or radar delay condition met

The circumstances set out in this section are where the electricity is –

- (a) generated using the original capacity of an onshore wind generating station –
 - (i) which was accredited during the period beginning with 1 January 2018 and ending with 31 December 2018,
 - (ii) in respect of which both the approved development condition and the investment freezing condition are met, and
 - (iii) in respect of which the grid or radar delay condition is met, or
- (b) generated using additional capacity of an onshore wind generating station, where –
 - (i) the station was accredited on or before 31 March 2016,
 - (ii) in the Authority’s view, the additional capacity first formed part of the station during the period beginning with 1 January 2018 and ending with 31 December 2018,
 - (iii) both the approved development condition and the investment freezing condition are met in respect of the additional capacity, and
 - (iv) the grid or radar delay condition is met in respect of the additional capacity.

32LJ The approved development condition

- (1) This section applies for the purposes of sections 32LF to 32LI.
- (2) The approved development condition is met in respect of an onshore wind generating station if the documents specified in subsections (4), (5) and (6) were provided to the Authority with the application for accreditation of the station.
- (3) The approved development condition is met in respect of additional capacity if the documents specified in subsections (4), (5) and (6) were provided to the Authority on or before the date on which the Authority made its decision that the additional capacity could form part of an onshore wind generating station.
- (4) The documents specified in this subsection are –
 - (a) evidence that –
 - (i) planning permission for the station or additional capacity was granted on or before 18 June 2015, and
 - (ii) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached,

Amendment
No.

After Clause 66 – *continued*

- (b) evidence that—
- (i) planning permission for the station or additional capacity was refused on or before 18 June 2015, but granted after that date following an appeal or judicial review, and
 - (ii) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached,
- (c) evidence that—
- (i) an application for 1990 Act permission or 1997 Act permission was made on or before 18 June 2015 for the station or additional capacity,
 - (ii) the period allowed under section 78(2) of the 1990 Act or (as the case may be) section 47(2) of the 1997 Act ended on or before 18 June 2015 without any of the things mentioned in section 78(2)(a) to (b) of the 1990 Act or section 47(2)(a) to (c) of the 1997 Act being done in respect of the application,
 - (iii) the application was not referred to the Secretary of State, Welsh Ministers or Scottish Ministers in accordance with directions given under section 77 of the 1990 Act or section 46 of the 1997 Act,
 - (iv) 1990 Act permission or 1997 Act permission was granted after 18 June 2015 following an appeal, and
 - (v) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached, or
- 180 (d) a declaration by the operator of the station that, to the best of the operator’s knowledge and belief, planning permission is not required for the station or additional capacity.
- 185 (5) The documents specified in this subsection are—
- (a) a copy of an offer from a licensed network operator made on or before 18 June 2015 to carry out grid works in relation to the station or additional capacity, and evidence that the offer was accepted on or before that date (whether or not the acceptance was subject to any conditions or other terms), or
 - (b) a declaration by the operator of the station that, to the best of the operator’s knowledge and belief, no grid works were required to be carried out by a licensed network operator in order to enable the station to be commissioned or the additional capacity to form part of the station.
- (6) The documents specified in this subsection are a declaration by the operator of the station that, to the best of the operator’s knowledge and belief, as at 18 June 2015 a relevant developer of the station or additional capacity (or a person connected, within the meaning of section 1122 of the Corporation Tax Act 2010, with a relevant developer of the station or additional capacity) —
- (a) was an owner or lessee of the land on which the station or additional capacity is situated,

Amendment
No.

After Clause 66 – *continued*

- (b) had entered into an agreement to lease the land on which the station or additional capacity is situated,
 - (c) had an option to purchase or to lease the land on which the station or additional capacity is situated, or
 - (d) was a party to an exclusivity agreement in relation to the land on which the station or additional capacity is situated.
- (7) In this section –
- “the 1990 Act” means the Town and Country Planning Act 1990;
 - “1990 Act permission” means planning permission under the 1990 Act (except outline planning permission, within the meaning of section 92 of that Act);
 - “the 1997 Act” means the Town and Country Planning (Scotland) Act 1997;
 - “1997 Act permission” means planning permission under the 1997 Act (except planning permission in principle, within the meaning of section 59 of that Act);
 - “exclusivity agreement”, in relation to land, means an agreement by the owner or a lessee of the land not to permit any person (other than the persons identified in the agreement) to construct an onshore wind generating station on the land;
 - “planning permission” means –
 - (a) consent under section 36 of this Act,
 - (b) 1990 Act permission,
 - (c) 1997 Act permission, or
 - (d) development consent under the Planning Act 2008.

32LK The investment freezing condition

- (1) This section applies for the purposes of sections 32LH and 32LI.
- (2) The investment freezing condition is met in respect of an onshore wind generating station if the documents specified in subsection (4) were provided to the Authority with the application for accreditation of the station.
- (3) The investment freezing condition is met in respect of additional capacity if the documents specified in subsection (4) were provided to the Authority on or before the date on which the Authority made its decision that the additional capacity could form part of an onshore wind generating station.
- (4) The documents specified in this subsection are –
 - (a) a declaration by the operator of the station that, to the best of the operator’s knowledge and belief, as at the Royal Assent date –
 - (i) the relevant developer required funding from a recognised lender before the station could be commissioned or additional capacity could form part of the station,

Amendment
No.

After Clause 66 – continued

- (ii) a recognised lender was not prepared to provide that funding until enactment of the Energy Act 2016, because of uncertainty over whether the Act would be enacted or its wording if enacted, and
 - (iii) the station would have been commissioned, or the additional capacity would have formed part of the station, on or before 31 March 2017 if the funding had been provided before the Royal Assent date, and
 - (b) a letter or other document, dated on or before the date which is 28 days after the Royal Assent date, from a recognised lender confirming (whether or not the confirmation is subject to any conditions or other terms) that the lender was not prepared to provide funding in respect of the station or additional capacity until enactment of the Energy Act 2016, because of uncertainty over whether the Act would be enacted or its wording if enacted.
- (5) In this section –
- “recognised lender” means a provider of debt finance which has been issued with an investment grade credit rating by a registered credit rating agency;
- “the Royal Assent date” means the date on which the Energy Act 2016 is passed.
- (6) For the purposes of the definition of “recognised lender” in subsection (5) –
- “investment grade credit rating” means a credit rating commonly understood by registered credit rating agencies to be investment grade;
- “registered credit rating agency” means a credit rating agency registered in accordance with Regulation (EC) No 1060/2009 of the European Parliament and the Council of 16 September 2009 on credit rating agencies.

32LL The grid or radar delay condition

- (1) This section applies for the purposes of sections 32LE, 32LG and 32LI.
- (2) The grid or radar delay condition is met in respect of an onshore wind generating station if, on or before the date on which the Authority made its decision to accredit the station, the documents specified in subsection (4), (5) or (6) were –
 - (a) submitted by the operator of the station, and
 - (b) received by the Authority.
- (3) The grid or radar delay condition is met in respect of additional capacity if, on or before the date on which the Authority made its decision that the additional capacity could form part of an onshore wind generating station, the documents specified in subsection (4), (5) or (6) were –
 - (a) submitted by the operator of the station, and
 - (b) received by the Authority.

Amendment
No.

After Clause 66—*continued*

- (4) The documents specified in this subsection are—
- (a) evidence of an agreement with a network operator (“the relevant network operator”) to carry out grid works in relation to the station or additional capacity (“the relevant grid works”);
 - (b) a copy of a document written by, or on behalf of, the relevant network operator which estimated or set a date for completion of the relevant grid works (“the planned grid works completion date”) which was no later than the primary date;
 - (c) a letter from the relevant network operator confirming (whether or not such confirmation is subject to any conditions or other terms) that—
 - (i) the relevant grid works were completed after the planned grid works completion date, and
 - (ii) in the relevant network operator’s opinion, the failure to complete the relevant grid works on or before the planned grid works completion date was not due to any breach by a generating station developer of any agreement with the relevant network operator; and
 - (d) a declaration by the operator of the station that, to the best of the operator’s knowledge and belief, the station would have been commissioned, or the additional capacity would have formed part of the station, on or before the primary date if the relevant grid works had been completed on or before the planned grid works completion date.
- (5) The documents specified in this subsection are—
- (a) evidence of an agreement between a generating station developer and a person who is not a generating station developer (“the radar works agreement”) for the carrying out of radar works (“the relevant radar works”);
 - (b) a copy of a document written by, or on behalf of, a party to the radar works agreement (other than a generating station developer) which estimated or set a date for completion of the relevant radar works (“the planned radar works completion date”) which was no later than the primary date;
 - (c) a letter from a party to the radar works agreement (other than a generating station developer) confirming, whether or not such confirmation is subject to any conditions or other terms, that—
 - (i) the relevant radar works were completed after the planned radar works completion date, and
 - (ii) in that party’s opinion, the failure to complete the relevant radar works on or before the planned radar works completion date was not due to any breach of the radar works agreement by a generating station developer; and

Amendment
No.

After Clause 66 – *continued*

- 349
- (d) a declaration by the operator of the station that, to the best of the operator’s knowledge and belief, the station would have been commissioned, or the additional capacity would have formed part of the station, on or before the primary date if the relevant radar works had been completed on or before the planned radar works completion date.
- (6) The documents specified in this subsection are –
- (a) the documents specified in subsection (4)(a), (b) and (c);
 - (b) the documents specified in subsection (5)(a), (b) and (c); and
 - (c) a declaration by the operator of the station that, to the best of the operator’s knowledge and belief, the station would have been commissioned, or the additional capacity would have formed part of the station, on or before the primary date if –
 - (i) the relevant grid works had been completed on or before the planned grid works completion date, and
 - (ii) the relevant radar works had been completed on or before the planned radar works completion date.
- (7) In this section “the primary date” means –
- (a) in a case within section 32LE(a)(i) or (b)(i) and (ii), 31 March 2016;
 - (b) in a case within section 32LG(a)(i) and (ii) or (b)(i) to (iii), 31 March 2017;
 - (c) in a case within section 32LI(a)(i) and (ii) or (b)(i) to (iii), 31 December 2017.”
- (3) In section 32M (interpretation of sections 32 to 32M) –
- (a) in subsection (1), for “32LB” substitute “32LL”;
 - (b) at the appropriate places insert the following definitions –
 - ““accredited”, in relation to an onshore wind generating station, means accredited by the Authority as a generating station which is capable of generating electricity from renewable sources; and “accredit” and “accreditation” are to be construed accordingly;”;
 - ““additional capacity”, in relation to an onshore wind generating station, means any generating capacity which does not form part of the original capacity of the station;”;
 - ““commissioned”, in relation to an onshore wind generating station, means having completed such procedures and tests in relation to the station as constitute, at the time they are undertaken, the usual industry standards and practices for commissioning that type of generating station in order to demonstrate that it is capable of commercial operation;”;
 - ““generating station developer”, in relation to an onshore wind generating station or additional capacity, means –
 - (a) the operator of the station, or

Amendment
No.

After Clause 66 – *continued*

- (b) a person who arranged for the construction of the station or additional capacity;”;
- ““grid works”, in relation to an onshore wind generating station, means –
- (a) the construction of a connection between the station and a transmission or distribution system for the purpose of enabling electricity to be conveyed from the station to the system, or
 - (b) the carrying out of modifications to a connection between the station and a transmission or distribution system for the purpose of enabling an increase in the amount of electricity that can be conveyed over that connection from the station to the system;”;
- ““licensed network operator” means a distribution licence holder or a transmission licence holder;”;
- ““network operator” means a distribution exemption holder, a distribution licence holder or a transmission licence holder;”;
- ““onshore wind generating station” has the meaning given by section 32LC(2);”;
- ““original capacity”, in relation to an onshore wind generating station, means the generating capacity of the station as accredited;”;
- ““radar works” means –
- (a) the construction of a radar station,
 - (b) the installation of radar equipment,
 - (c) the carrying out of modifications to a radar station or radar equipment, or
 - (d) the testing of a radar station or radar equipment;”;
- ““relevant developer”, in relation to an onshore wind generating station or additional capacity, means a person who –
- (a) applied for planning permission for the station or additional capacity,
 - (b) arranged for grid works to be carried out in relation to the station or additional capacity,
 - (c) arranged for the construction of any part of the station or additional capacity,
 - (d) constructed any part of the station or additional capacity, or
 - (e) operates, or proposes to operate, the station;”.

Amendment
No.

After Clause 66—*continued*

LORD WALLACE OF TANKERNESS
LORD TEVERSON
BARONESS MADDOCK

[Amendments 78RA to 78RG are amendments to Amendment 78R]

78RA★

Line 180, at end insert—

- “() evidence that—
- (i) an application for 1990 Act permission or 1997 Act permission was made at least sixteen weeks prior to 18 June 2015 for the station or additional capacity,
 - (ii) the grant of planning permission was approved by the relevant planning committee on or before 18 June 2015, and
 - (iii) planning permission was granted after 18 June 2015, and any conditions as to the time period within which the development to which the permission relates must be begun have not been breached, or
- () evidence that—
- (i) an application for consent for the station or additional capacity was made under section 36 and the consultation period prescribed by regulations made under paragraph 2(3) of Schedule 8 had expired prior to 18 June 2015,
 - (ii) during the consultation period, the relevant planning authority had notified the Secretary of State that they objected to the application and their objection had not been withdrawn,
 - (iii) the Secretary of State caused a public inquiry to be held,
 - (iv) following consideration of the objection and the report of the person who held the inquiry, the Secretary of State granted consent and deemed planning permission after 18 June 2015, and
 - (v) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached, or
- () evidence that planning permission was approved by the relevant planning authority on or before 18 June 2015, subject to an agreement under section 106 of the 1990 Act (planning obligations) or section 75 of the 1997 Act (agreements regulating development or use of land); and such an agreement is concluded before 31 March 2016, or”

78RB★

Line 180, at end insert—

- “() evidence that—
- (i) an application for 1990 Act permission or 1997 Act permission was made on or before 18 June 2015 for the station or additional capacity,
 - (ii) the grant of planning permission was approved by the relevant planning committee on or before 18 June 2015, and

Amendment
No.

After Clause 66 – *continued*

- (iii) planning permission was granted after 18 June 2015, and any conditions as to the time period within which the development to which the permission relates must be begun have not been breached, or
 - (l) evidence that –
 - (i) an application for consent for the station or additional capacity was made under section 36 and the consultation period prescribed by regulations made under paragraph 2(3) of Schedule 8 had expired prior to 18 June 2015,
 - (ii) during the consultation period, the relevant planning authority had notified the Secretary of State that they objected to the application and their objection had not been withdrawn,
 - (iii) the Secretary of State caused a public inquiry to be held,
 - (iv) following consideration of the objection and the report of the person who held the inquiry, the Secretary of State granted consent and deemed planning permission after 18 June 2015, and
 - (v) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached, or”
- 78RC★** Line 185, at end insert –
“(l) a copy of an offer from a licenced network operator to carry out grid works in relation to the station or additional capacity, and evidence that the offer was for a connection date before the end of March 2017,”
- 78RD★** Line 268, after “which” insert “at any time between 18 June 2015 and the Royal Assent date –
(i) ”
- 78RE★** Line 270, at end insert –
“, or
(ii) is a bank, financial institution, trust fund, or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets;”
- 78RF★** Line 334, leave out “the primary date” and insert “31 March 2018”
- 78RG★** Line 349, leave out “the primary date” and insert “31 March 2018”

BARONESS WORTHINGTON
LORD GRANTCHESTER

78S Insert the following new Clause –

“Decarbonisation obligation

- (1) Within six months of the coming into force of this Act, the Secretary of State must bring forward regulations for a “decarbonisation obligation”.

Amendment
No.

After Clause 66 – *continued*

- (2) A “decarbonisation obligation” means the level of carbon intensity of electricity generation in the United Kingdom that a relevant supplier may not exceed in respect of the total kilowatt hours of electricity that it supplies to customers in England and Wales during a given year.
- (3) In setting a decarbonisation obligation, the Secretary of State must first obtain and take account of advice from the Committee on Climate Change.
- (4) Under this section, a “relevant supplier” refers to electricity suppliers supplying electricity in the United Kingdom.”

78T Insert the following new Clause –

“Contracts for difference

After section 13(3) of the Energy Act 2013 insert –

- “(3A) An allocation round must be held at least once in each year in which the carbon intensity of electricity generation in the United Kingdom exceeds 100 grams per kilowatt hour.””

BARONESS WORTHINGTON
LORD GRANTCHESTER
LORD TEVERSON

78U★ Insert the following new Clause –

“Emissions trading: United Kingdom carbon account

In section 27 (net UK carbon account) of the Climate Change Act 2008, after subsection (2) insert –

- “(2A) No carbon units attributable to power generation and deriving from the operation of the EU Emissions Trading System may be credited to or debited from the net United Kingdom carbon account for any period commencing after 31 December 2027.””

BARONESS WORTHINGTON
LORD GRANTCHESTER

78V★ Insert the following new Clause –

“Capacity mechanism

Fossil fueled generating plant granted 15 year capacity contracts under the capacity mechanism established under the Energy Act 2013 shall be subject to –

- (a) a carbon price;
- (b) a requirement to fit best available technologies to mitigate air pollutants; and
- (c) the Emissions Performance Standard as established in the Energy Act 2013.”

Amendment
No.

Clause 67

LORD BOURNE OF ABERYSTWYTH

- 79 Page 39, line 24, leave out paragraph (b)
- 80 Page 39, line 25, at end insert “or
() regulations under section (*Disclosure permitted after specified period*)(1),”
- 81 Page 39, line 25, at end insert –
“() regulations under section (*Disclosure by OGA to certain persons*)(6),”

After Clause 67

LORD BOURNE OF ABERYSTWYTH

- 82 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 68

LORD BOURNE OF ABERYSTWYTH

- 82A Page 39, line 34, leave out “This Part comes” and insert “Sections 66, (*Onshore wind power: circumstances in which certificates may be issued after 31 March 2016*) and this Part come”

LORD WALLACE OF TANKERNESS
LORD TEVERSON
BARONESS MADDOCK

- 82B★ Page 39, line 37, at end insert “, subject to subsection (3A).
- (3A) Section 66 and section (*Onshore wind power: circumstances in which certificates may be issued after 31 March 2016*) shall not come into force until the Secretary of State has reported to Parliament on –
- (a) the progress made towards United Kingdom climate change targets, in particular the carbon budgets and emissions targets set under the Climate Change Act 2008, and the United Kingdom’s 2020 European Union renewable energy targets, and
- (b) the strategy for meeting those targets, including an explanation of which forms of renewable energy will be required to meet the need for low carbon energy,
- and two months have elapsed since the report was made to Parliament.”

Amendment
No.

Clause 69

LORD BOURNE OF ABERYSTWYTH

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

After the Schedule

LORD BOURNE OF ABERYSTWYTH

- 84 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
 - (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.

Amendment
No.

After the Schedule – *continued*

- (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.
- (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

Amendment
No.

After the Schedule – continued

- (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.
 - (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.

Amendment
No.

After the Schedule – continued

- (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.
- (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.

**Amendment
No.**

After the Schedule – continued

- (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,”.
- 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.

**Amendment
No.**

After the Schedule – continued

- (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

- 85 Line 2, after “infrastructure;” insert “to make provision about the abandonment of offshore installations, submarine pipelines and upstream petroleum infrastructure;”
- 86 Line 2, after “infrastructure;” insert “to extend Part 1A of the Petroleum Act 1998 to Northern Ireland;”
- 87 Line 2, after “infrastructure;” insert “to make provision about the disclosure of information for the purposes of international agreements;”

Energy Bill [HL]

REVISED
SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

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