

Energy Bill [HL]

MARSHALLED LIST OF AMENDMENTS TO BE MOVED ON CONSIDERATION OF COMMONS AMENDMENTS

[The page and line references are to Bill 92, the bill as first printed for the Commons.]

Clause 2

COMMONS AMENDMENT 1

- 1** Page 2, line 37, at end insert –
“() Schedule 1 to the Oil Taxation Act 1975,”

COMMONS AMENDMENT 2

- 2** Page 2, line 39, at end insert –
2 “() Chapter 9 of Part 8 of the Corporation Tax Act 2010,”

LORD BOURNE OF ABERYSTWYTH

[As an amendment to Commons Amendment 2]

- 2A** Line 2, leave out “Chapter 9 of”

COMMONS AMENDMENT 3

Clause 8

- 3** Page 5, line 29, leave out Clause 8

COMMONS AMENDMENTS 4 AND 5

Clause 17

4 Page 12, line 7, leave out “one year” and insert “three years”

5 Page 12, line 12, leave out “one year” and insert “three years”

After Clause 79

COMMONS AMENDMENT 6

6 Insert the following new Clause –

“Onshore wind power: closure of renewables obligation on 31 March 2016

(1) In Part 1 of the Electricity Act 1989 (electricity supply), after section 32LB insert –

“32LC Onshore wind generating stations: closure of renewables obligation

9 (1) No renewables obligation certificates are to be issued under a renewables obligation order in respect of electricity generated after 31 March 2016 by an onshore wind generating station.

(2) Subsection (1) does not apply to electricity generated in the circumstances set out in any one or more of sections 32LD to 32LL.

12 (3) In this section and sections 32LD to 32LL “onshore wind generating station” means a generating station that –

(a) generates electricity from wind, and

(b) is situated in England, Wales or Scotland, but not in waters in or adjacent to England, Wales or Scotland up to the seaward limits of the territorial sea.

(4) The reference in subsection (1) to a renewables obligation order is to any renewables obligation order made under section 32 (whenever made, and whether or not made by the Secretary of State).

(5) Power to make provision in a renewables obligation order or a renewables obligation closure order (and any provision contained in such an order) is subject to subsection (1) and sections 32LD to 32LL.

(6) This section is not otherwise to be taken as affecting power to make provision in a renewables obligation order or renewables obligation closure order.”

(2) The Renewables Obligation Closure Order 2014 (S.I. 2014/2388) is amended as follows.

(3) In article 2(1) (interpretation), after the definition of “network operator” insert –

““onshore wind generating station” means a generating station that –

- (a) generates electricity from wind, and
 - (b) is situated in England, Wales or Scotland, but not in waters in or adjacent to England, Wales or Scotland up to the seaward limits of the territorial sea;”.
- (4) In article 3 (closure of renewables obligation on 31st March 2017) –
- (a) in the heading, after “solar pv stations” insert “or onshore wind generating stations”;
 - (b) in paragraph (1), after “solar pv station” insert “or an onshore wind generating station”.”

LORD BOURNE OF ABERYSTWYTH

[As amendments to Commons Amendment 6]

6A Line 9, leave out “31 March 2016” and insert “the onshore wind closure date”

6B Line 12, after “32LL” insert “–
“the onshore wind closure date” means the date on which the Energy Act 2016 is passed;”

COMMONS AMENDMENT 7

7 Insert the following new Clause –

“Onshore wind power: circumstances in which certificates may be issued after 31 March 2016

- (1) Part 1 of the Electricity Act 1989 (electricity supply) is amended as follows.
- (2) After section 32LC (inserted by section [*Onshore wind power: closure of renewables obligation on 31 March 2016*] of this Act) insert –

8 “32LD Onshore wind generating stations accredited, or additional capacity added, on or before 31 March 2016

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

- 11 (a) generated by an onshore wind generating station which was accredited on or before 31 March 2016, and
- (b) generated using –
 - 15 (i) the original capacity of the station, or
 - (ii) additional capacity which in the Authority’s view first formed part of the station on or before 31 March 2016.

18 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 –

- 24 (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
- 30 (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.
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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.
- 50

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

- 71 (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.

82 **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—
 - 88 (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—
 - 95 (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
 - 100 (iii) both the approved development condition and the investment freezing condition are met in respect of the additional capacity.

105 **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—
 - 111 (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—
- 120 (i) the station was accredited on or before 31 March 2016,
- 124 (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—
- 145 (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,
- (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,
- 165 (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,

- 167 (iii) the application was not referred to the Secretary of
State, Welsh Ministers or Scottish Ministers in
170 accordance with directions given under section 77 of
the 1990 Act or section 46 of the 1997 Act,
- 172 (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
- 176 (d) a declaration by the operator of the station that, to the best
of the operator's knowledge and belief, planning
179 permission is not required for the station or additional
capacity.
- (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
185 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
190 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,
- (b) had entered into an agreement to purchase or 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
215 the meaning of section 59 of that Act);

- 220 “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;
- 225 “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,
 - (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 –

- 263 “recognised lender” means a provider of debt finance which
has been issued with an investment grade credit rating by a
265 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.
- (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
 - (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 –

- 360 (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;
- 365 (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

(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;”;

- 416 ““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(3);”;
- ““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;”.

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[As amendments to Commons Amendment 7]

LORD BOURNE OF ABERYSTWYTH

- 7A Line 8, leave out “**31 March 2016**” and insert “**the onshore wind closure date**”
- 7B Line 11, leave out “31 March 2016” and insert “the onshore wind closure date”
- 7C Line 15, leave out “31 March 2016” and insert “the onshore wind closure date”
- 7D Line 18, leave out “**between 1 April 2016 and 31 March 2017**” and insert “**in the year after the onshore wind closure date**”
- 7E Line 24, leave out “with 1 April 2016 and ending with 31 March 2017” and insert “immediately after the onshore wind closure date and ending with the first anniversary of the onshore wind closure date”
- 7F Line 30, leave out “31 March 2016” and insert “the onshore wind closure date”
- 7G Line 34, leave out “with 1 April 2016 and ending with 31 March 2017” and insert “immediately after the onshore wind closure date and ending with the first anniversary of the onshore wind closure date”
- 7H Line 50, leave out “31 March 2016” and insert “the onshore wind closure date”

- 7J Line 71, leave out “31 March 2016” and insert “the onshore wind closure date”
- 7K Line 82, leave out “**December 2017**” and insert “**January 2018**”
- 7L Line 88, leave out “December 2017” and insert “January 2018”
- 7M Line 95, leave out “31 March 2016” and insert “the onshore wind closure date”
- 7N Line 100, leave out “December 2017” and insert “January 2018”
- 7P Line 105, leave out “**January 2018 and 31 December 2018**” and insert “**February 2018 and 31 January 2019**”
- 7Q Line 111, leave out “January 2018 and ending with 31 December 2018” and insert “February 2018 and ending with 31 January 2019”
- 7R Line 120, leave out “31 March 2016” and insert “the onshore wind closure date”
- 7S Line 124, leave out “January 2018 and ending with 31 December 2018” and insert “February 2018 and ending with 31 January 2019”

LORD HAIN

- 7T★ Line 145, after “2015,” insert “regardless of whether it was varied after that date by any planning permission, consent or development consent issued under section 73 of the Town and Country Planning Act 1990 (determination of applications to develop land without compliance with conditions previously attached), section 42 of the Town and Country Planning (Scotland) Act 1997 (determination of applications to develop land without compliance with conditions previously attached), section 36C of this Act (variation of consents under section 36) or under the Planning Act 2008,”

LORD FOULKES OF CUMNOCK

- 7U Line 165, after second “Act” insert “or section 43A(8)(a) to (c) of the 2006 Act”
- 7V Leave out lines 167 to 170
- 7W Line 172, after “appeal” insert “or a review”

LORD WALLACE OF TANKERNESS

- 7X Leave out lines 176 to 185 and insert –
- “(d) evidence that –
- (i) an application for 1990 Act permission or 1997 Act permission was made before 18 June 2015 for the station or for additional capacity,
 - (ii) the relevant planning authority resolved to grant 1990 Act permission or 1997 Act permission on or before 18 June 2015, and
 - (iii) planning permission was granted after 18 June 2015, and
 - (iv) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached, or
- (e) 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, except than an extended period has been agreed in writing between the applicant and planning authority for the purposes of section 78(2) of the 1990 Act or section 47(2) of the 1997 Act,
 - (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) planning permission was granted 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
- (f) 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 had 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 relates must be begun have not been breached, or
- (g) evidence that –
- (i) an application for 1990 Act permission or 1997 Act permission was made on or before 18 June 2014 for the station or additional capacity,
 - (ii) planning permission was granted after 18 June 2015, and
 - (iii) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached, or
- (h) evidence that on or before 18 June 2015 the relevant planning authority made a decision to grant planning

permission for the station or additional capacity, or made a decision to grant or to intend to grant planning permission for the station or additional capacity, 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 the onshore wind closure date, or

- (i) 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.
- (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);
 - (b) a copy of –
 - (i) an application for an offer to carry out grid works in relation to the station or additional capacity submitted to a licensed network operator on or before 18 June 2015; and
 - (ii) an offer from a licenced network operator made after 18 June 2015 to carry out grid works in relation to the station or additional capacity and evidence that the offer was accepted after 18 June 2015 (whether or not the acceptance was subject to any conditions or other terms); or
 - (c) evidence that planning permission for the station or additional capacity was refused on or before 18 June 2015 and an appeal was determined as at 18 June 2015;
 - (d) a copy of an application for an offer to carry out grid works in relation to the station or additional capacity submitted to a licensed network operator on or after 18 June 2015; and
 - (e) an offer from a licensed network operator made after 18 June 2015 to carry out grid works in relation to the station or additional capacity and evidence that the offer was accepted before 31 December 2015 (whether or not the acceptance was subject to any conditions or other terms),”

LORD FOULKES OF CUMNOCK

7Y Line 179, at end insert “, or

- (e) 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 relevant planning authority or appeal body made a decision on or before 18 June 2015 to grant or to intend to grant planning permission for the station or additional capacity, or made a decision to

- grant or to intend to grant planning permission for the station or additional capacity subject to the execution of a planning agreement,
- (iii) planning permission was granted after 18 June 2015, and
- (iv) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached;
- (f) evidence that –
 - (i) an application for 1990 permission or 1997 Act permission was made on or before 18 June 2014 for the station or additional capacity,
 - (ii) planning permission was granted after 18 June 2015, and
 - (iii) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached.”

LORD WALLACE OF TANKERNESS

7AA Line 179, at end insert “, or

- “(e) evidence that –
 - (i) the requirements of section 61W of the 1990 Act or section 35B(2) to (6) of the 1997 Act were met on or before 18 June 2015 for the station or the additional capacity and planning permission for the station or the additional capacity was subsequently granted before this section came into force,
 - (ii) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached, and
 - (iii) the station or additional capacity was being developed by a community organisation or an equity shareholding in the station or the additional capacity had been committed to a community organisation(s) on or before 18 June 2015.”

LORD GRANTCHESTER

7AB★ Line 179, at end insert “, or

- (e) 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 for additional capacity,
 - (ii) a grant of planning permission was resolved by the relevant planning authority on or before 18 June 2015,
 - (iii) planning permission was granted after 18 June 2015, and

- (iv) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached.”

LORD FOULKES OF CUMNOCK

7AC Line 190, at end insert—

“(c) a copy of—

- (i) an application for an offer to carry out grid works in relation to the station or additional capacity submitted to a licensed network operator on or before 18 June 2015, and
- (ii) an offer from a licensed network operator made after 18 June 2015 to carry out grid works in relation to the station or additional capacity and evidence that the offer was accepted after 18 June 2015 (whether or not the acceptance was subject to any conditions or other terms).”

7AD Line 215, at end insert—

““the 2006 Act” means the Planning etc. (Scotland) Act 2006;
 “appeal body” means the Secretary of State or the Welsh Ministers except where the decision in question was made by the Secretary of State or the Welsh Ministers pursuant to a direction made under section 77 of the 1990 Act or a local review body constituted under section 43A of the 1997 Act and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations (S.I. 2013/157), or the Scottish Ministers except where the decision in question was made by the Scottish Ministers in exercise of their call-in powers under section 46 of the 1997 Act;”

7AE Line 220, at end insert—

““planning agreement” means an agreement entered into, or a unilateral obligation pursuant to section 75 of the 1997 Act or section 106 of the 1990 Act;”

LORD WALLACE OF TANKERNESS

7AF Line 225, at end insert—

“and shall include approval of all minor and non-material variations, modifications and revocations;

“minor and non-material variations, modifications and revocations” means—

- (a) in respect of 1990 Act permission, variations to conditions under section 73, non-material changes under section 96A, modifications and revocations under section 97 and modification and revocation by the Secretary of State under section 100 of the 1990 Act;
- (b) in respect of 1997 Act permission, variations to condition under section 42, non-material changes

under section 64, modifications and revocations under section 65 and modification and revocation by the Secretary of State under section 68 of the 1997 Act;

- (c) in respect of consent under section 36 of this Act, variations under section 36C of this Act;
- (d) in respect of development consent under the Planning Act 2008, variations under section 153 of, Schedule 4 and (paragraphs 2 or 3 of) Schedule 6 to that Act;

provided that planning permission or consent was in place for the development or extension of that generating station on or before 18 June 2015, and that in no case shall the generating capacity of the development be increased as a result of such variation, modification or revocation.”

7AG Line 263, leave out from “means” to end of line 265 and insert—

- “(a) a provider of debt finance which has been issued with an investment grade credit rating by a registered credit rating agency; or
- (b) 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;”

7AH Leave out lines 360 to 365 and insert “30 April 2018”

LORD BOURNE OF ABERYSTWYTH

7AJ Line 360, leave out “31 March 2016” and insert “the onshore wind closure date”

7AK Line 365, leave out “December 2017” and insert “January 2018”

7AL Line 416, at end insert—

“““the onshore wind closure date” has the meaning given by section 32LC(3);”;

LORD WALLACE OF TANKERNESS

7AM Line 436, at end insert—

“32LM The community organisation requirement

- (1) This section applies for the purposes of section 32LJ.
- (2) The community organisation requirement in section 32LJ(4)(e)(iii) 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 community organisation requirement in section 32LJ(4)(e)(iii) 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 a community organisation held, or had received a formal offer to hold, an equity shareholding in the station or the additional capacity on or before 18 June 2015, such declaration to be supported by confirmation in the planning permission documents for the station or the additional capacity of the community organisation involvement; and
 - (b) a letter or other document from a community organisation confirming that the community organisation held, or had received a formal offer to hold, an equity shareholding in the station or the additional capacity on or before 18 June 2015.
- (5) In this section “community organisation” means—
- (a) any of the following which has 50 or fewer employees—
 - (i) a charity;
 - (ii) a community benefit or co-operative society; or
 - (iii) a community interest company; or
 - (b) a subsidiary (as defined in section 1159 of the Companies Act 2006(b)), wholly owned by a charity, where the subsidiary has 50 or fewer employees and the parent charity has 50 or fewer employees.”

COMMONS AMENDMENT 8

8 Insert the following new Clause—

“Onshore wind power: use of Northern Ireland certificates

- (1) The Electricity Act 1989 is amended as follows.
- (2) Before section 32M insert—

“32LM Use of Northern Ireland certificates: onshore wind power

- (1) The Secretary of State may make regulations providing that an electricity supplier may not discharge its renewables obligation (or its obligation in relation to a particular period) by the production to the Authority of a relevant Northern Ireland certificate, except in the circumstances, and to the extent, specified in the regulations.
- (2) A “relevant Northern Ireland certificate” is a Northern Ireland certificate issued in respect of electricity generated after 31 March 2016 (or any later date specified in the regulations)—
 - (a) using the original capacity of a Northern Ireland onshore wind generating station accredited after 31 March 2016 (or any later date so specified), or
 - (b) using additional capacity of a Northern Ireland onshore wind generating station, where in the Authority’s view the additional capacity first formed part of the station after 31 March 2016 (or any later date so specified).

- (3) In this section –
- “NIRO Order” means any order made under Articles 52 to 55F of the Energy (Northern Ireland) Order 2003;
 - “Northern Ireland certificate” means a renewables obligation certificate issued by the Northern Ireland authority under the Energy (Northern Ireland) Order 2003 and pursuant to a NIRO Order;
 - “Northern Ireland onshore wind generating station” means a generating station that –
 - (a) generates electricity from wind, and
 - (b) is situated in Northern Ireland, but not in waters in or adjacent to Northern Ireland up to the seaward limits of the territorial sea.
- (4) Power to make provision in a renewables obligation order by virtue of section 32F (and any provision contained in such an order) is subject to provision contained in regulations under this section.
- (5) This section is not otherwise to be taken as affecting power to make provision in a renewables obligation order.
- (6) Regulations under this section may amend a renewables obligation order.
- (7) Section 32K applies in relation to regulations under this section as it applies in relation to a renewables obligation order.”
- (3) In section 32M (interpretation) –
- (a) in subsection (1), for “32LB” substitute “32LM”;
 - (b) in subsection (7), for “32L” substitute “32LM”.

LORD BOURNE OF ABERYSTWYTH

[As amendments to Commons Amendment 8]

- 8A** Line 12, leave out “31 March 2016” and insert “the onshore wind closure date”
- 8B** Line 15, leave out “31 March 2016” and insert “the onshore wind closure date”
- 8C** Line 19, leave out “31 March 2016” and insert “the onshore wind closure date”

COMMONS AMENDMENT 9

Clause 80

- 9** Page 47, line 3, leave out Clause 80

Lord Grantchester to move, as an amendment to the motion that this House do agree with the Commons in their Amendment 9, at end insert “, and do propose Amendments 9A to 9D in lieu of the words so left out of the Bill”.

Clause 80

9A★ Insert the following new Clause –

“PART 6

UNITED KINGDOM CARBON ACCOUNT

Review of calculation of net UK carbon account

- (1) The Secretary of State must carry out a review of whether it is appropriate for the calculation of the net UK carbon account for the 2028–2032 budgetary period, and subsequent budgetary periods, to take into account the crediting and debiting of carbon units as a result of the operation of –
 - (a) the European Union Emissions Trading Scheme, or
 - (b) any amendment of, or replacement for, that scheme that the Secretary of State considers may have effect for the budgetary periods to which the review relates.
- (2) When carrying out the review the Secretary of State must take into account –
 - (a) any representations made by the other national authorities,
 - (b) scientific knowledge about climate change,
 - (c) technology relevant to climate change,
 - (d) economic circumstances,
 - (e) fiscal circumstances,
 - (f) social circumstances,
 - (g) energy policy, and
 - (h) circumstances at European and international level.
- (3) Nothing in subsection (2) is to be read as restricting the matters that the Secretary of State may take into account.
- (4) The review must be published, in such manner as the Secretary of State considers appropriate, no later than 31 December 2016.
- (5) In this section “European Union Emissions Trading Scheme” means the scheme established under Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, as implemented by the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038).
- (6) Expressions used in this section and in Part 1 of the Climate Change Act 2008 have the same meanings as in that Part.”

Clause 83

9B★ Page 48, line 3, leave out “Part 4 comes” and insert “Parts 4 and 6 come”

Clause 84

9C★ Page 48, line 12, at end insert –

“(2A) Part 6 extends to England and Wales only.”

9D★ Page 48, line 13, leave out “subsection (2)” and insert “subsections (2) and (2A)”

Baroness Worthington to move, as an amendment to the motion that this House do agree with the Commons in their Amendment 9, at end insert “, and do propose Amendment 9E in lieu of the words so left out of the Bill”.

Clause 80

9E★ Insert the following new Clause –

“Review of calculation of net UK carbon account (No. 2)

- (1) The Secretary of State must lay before Parliament revised regulations relating to carbon accounting under section 27(3) of the Climate Change Act 2008.
- (2) Before laying such regulations the Secretary of State must carry out a review of whether it is appropriate for the calculation of the net UK carbon account for the 2028-2032 budgetary period, and subsequent budgetary periods, to take into account the crediting and debiting of carbon units as a result of the operation of –
 - (a) the European Union Emissions Trading Scheme, or
 - (b) any amendment of, or replacement for, that scheme that the Secretary of State considers may have effect for the budgetary periods to which the review relates.
- (3) When carrying out the review the Secretary of State must take into account –
 - (a) advice from the Committee on Climate Change,
 - (b) any representations made by the other national authorities,
 - (c) scientific knowledge about climate change,
 - (d) technology relevant to climate change,
 - (e) economic circumstances,
 - (f) fiscal circumstances,
 - (g) social circumstances,
 - (h) energy policy, and
 - (i) circumstances at European and international level.
- (4) Nothing in subsection (3) is to be read as restricting the matters that the Secretary of State may take into account.
- (5) The review must be published, in such manner as the Secretary of State considers appropriate, no later than one year after the passing of this Act.
- (6) The Secretary of State must lay the regulations under subsection (1) no later than 31 December 2017.
- (7) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

COMMONS AMENDMENT 10

Clause 83

- 10** Page 48, line 2, leave out “This Part comes” and insert “Sections [*Onshore wind power: closure of renewables obligation on 31 March 2016*], [*Onshore wind power: circumstances in which certificates may be issued after 31 March 2016*] and [*Use of Northern Ireland certificates: onshore wind power*] and this Part come”

COMMONS AMENDMENT 11

Clause 84

- 11** Page 48, line 14, leave out subsection (4)

COMMONS AMENDMENT 12

In the Title

- 12** Line 8, leave out from “power;” to “and” in line 10
- Lord Grantchester to move, as an amendment to the motion that this House do agree with the Commons in their Amendment 12, at end insert “, and do propose Amendment 12A in lieu of the words so left out of the Bill”.**
- 12A★** Line 8, after “power;” insert “to make provision for a review of the calculation of the net UK carbon account;”

Energy Bill [HL]

MARSHALLED LIST OF AMENDMENTS TO BE MOVED ON
CONSIDERATION OF COMMONS AMENDMENTS

11th April 2016

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