

ENERGY BILL [HL]

EXPLANATORY NOTES ON COMMONS AMENDMENTS

What these notes do

- 1 These Explanatory Notes relate to the Commons Amendments to the Energy Bill [HL] as brought from the House of Commons on 15 March 2016.
- 2 These Explanatory Notes have been prepared by the Department of Energy and Climate Change in order to assist the reader of the Bill and the Commons amendments, and to help inform debate on the Commons amendments. They do not form part of the Bill and have not been endorsed by Parliament.
- 3 These Explanatory Notes, like the Commons amendments themselves, refer to Bill 92, the Bill as first printed for the Commons.
- 4 These Explanatory Notes need to be read in conjunction with the Commons amendments and the text of the Bill. They are not, and are not intended to be, a comprehensive description of the Commons amendments.
- 5 All of the Commons Amendments were tabled in the name of the Minister or Secretary of State.

Commentary on Commons amendments

Commons Amendments to Clause 2: Transfer of functions to the OGA

Commons Amendment 1

- 6 Commons Amendment 1 would add functions under Schedule 1 to the Oil Taxation Act 1975 to the list of functions that can be transferred to the Oil and Gas Authority (OGA) by regulations made under clause 2(2) of this Bill. This seeks to ensure that the function of determining oil fields under paragraph 1 of that Schedule can be transferred to the OGA.

Commons Amendment 2

- 7 Commons Amendment 2 would add functions under Chapter 9 of Part 8 of the Corporation Tax Act 2010 to the list of functions that can be transferred to the OGA by regulations made under clause 2(2) of this Bill. This seeks to ensure that the function of determining cluster areas under section 356JD of that Act can be transferred to the OGA.

Commentary on Commons amendments

Commons Amendments to Clause 8: Transportation and storage of greenhouse gases

Commons Amendment 3

- 8 Commons Amendment 3 would omit clause 8 from the Bill. Clause 8 amends the OGA's Principal Objective, which is set out in section 9A of the Petroleum Act 1998. That objective is to maximise the economic recovery of UK petroleum. Clause 8 changes that objective to one

of maximising the economic return of UK petroleum, while retaining oversight of the decommissioning of oil and gas infrastructure, and securing its re-use for transportation and storage of greenhouse gases.

Commons Amendment to Clause 17: Review of OGA and guidance from Secretary of State

Commons Amendment 4 & 5

- 9 Commons Amendments 4 and 5 would amend the periods within which the Secretary of State must review the OGA's performance, as set out within clause 17.
 - a. Amendment 4 would increase the time period within which the Secretary of State must carry out an initial review from a maximum of one year after clause 1 of the Bill comes into force to a maximum of three years after that time.
 - b. Amendment 5 would increase the maximum time period within which the Secretary of State must carry out subsequent reviews from a maximum of one year after the last day of the preceding review period to a maximum of three years after that time.

Commons Amendments - New Clauses, Part 5, Wind Power

Commons Amendment 6 - Onshore wind power: closure of renewables obligation on 31 March 2016

- 10 Commons Amendment 6 would amend the Electricity Act 1989 to provide for the closure of the Renewables Obligation ("RO") to new onshore wind generating stations located within Great Britain on 31 March 2016. It does this by preventing renewables obligation certificates ("ROCs") from being issued for electricity generated by onshore wind generating stations after 31 March 2016. Exceptions to the prohibition on the issuance of ROCs are set in Commons Amendment 7.
- 11 Commons Amendment 6 also aims to clarify that the provision it makes would override the power to make a renewables obligation order or a renewables obligation closure order under section 32 of the Electricity Act 1989. In addition, it would make a number of consequential amendments to the Renewables Obligation Closure Order 2014.

Commons Amendment 7 - Onshore wind power: circumstances in which certificates may be issued after 31 March 2016

- 12 Commons Amendment 7 would amend the Electricity Act 1989 to ensure that ROCs may continue to be issued for electricity generated by onshore wind generating stations accredited on or before 31 March 2016. It also sets out a number of exceptions which would ensure that ROCs may continue to be issued for electricity generated by stations accredited after that date if they meet certain conditions. These conditions would be inserted into the Electricity Act 1989 as new sections 32LD to 32LL:
 - a. Section 32LD would ensure that ROCs may continue to be issued for electricity generated by onshore wind generating stations accredited on or before 31 March 2016 or by additional capacity added to an existing accredited generating station which first formed part of the station on or before that date.
 - b. Section 32LE would allow ROCs to be issued for electricity generated by new onshore wind generating stations accredited between 1 April 2016 and 31 March 2017 (or additional capacity added to a station between those dates). This applies where the station or additional capacity was delayed by unforeseen grid and/or radar problems beyond the station's control and is referred to as the grid or radar delay condition.

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The evidence requirements for this condition would be set out in section 32LL.

- c. Section 32LF would allow ROCs to be issued for electricity generated by new onshore wind generating stations accredited (or additional capacity added to a station) by 31 March 2017 where the station or additional capacity meets the approved development condition. This would require a station or the additional capacity to have received planning permission, accepted a grid connection offer and secured land rights by 18 June 2015. The evidence requirements for the approved development condition would be set out in section 32LJ.
- d. Section 32LG would allow ROCs to be issued for electricity generated by new onshore wind generating stations accredited (or additional capacity added to a station) between 1 April 2017 and 31 March 2018 where the station or the additional capacity meets the approved development condition and the grid or radar delay condition. The evidence requirements for this condition would be set out in sections 32LJ and 32LL.
- e. 32LH would allow ROCs to be issued for electricity generated by new onshore wind generating stations accredited (or additional capacity added to a station) between 1 April 2017 and 31 December 2017 where the station or the additional capacity meets the approved development condition and also satisfies the investment freezing condition. The investment freezing condition would allow projects to accredit which can demonstrate that their financing arrangements were disrupted due to legislative uncertainty during the passage of this Bill meaning they could not progress during that time. The evidence requirements for this condition would be set out in section 32LK.
- f. Section 32LI would allow ROCs to be issued for electricity generated by new onshore wind generating stations accredited (or additional capacity added to a station) between 1 January 2018 and 31 December 2018 where the station or the additional capacity meets both the approved development condition and the investment freezing condition and it also meets the grid or radar delay condition. The evidence requirements for these conditions would be set out in sections 32LJ, 32LK and 32LL.
- g. Section 32LJ would set out the documents that need to be provided to the Authority with the application for accreditation of the station (or submitted by the operator in respect of additional capacity) to demonstrate that the approved development condition is met.
- h. Section 32LK would set out the documents that need to be provided to the Authority with the application for accreditation of the station (or submitted by the operator in respect of additional capacity) to demonstrate that the investment freezing condition is met.
- i. Section 32LL would set out the documents that need to be provided to the Authority with the application for accreditation of the station (or submitted by the operator in respect of additional capacity) to demonstrate that the grid or radar delay condition is met.

Commons Amendment 8 - Use of Northern Ireland certificates: onshore wind power

- 13 Commons Amendment 8 would insert new section 32LM into the Electricity Act 1989 to allow the Secretary of State to make regulations to prevent an electricity supplier in Great Britain from discharging its renewables obligation using a ROC issued in respect of electricity

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generated in Northern Ireland - a Northern Ireland certificate - after 31 March 2016 (or a later date specified in regulations) by an onshore wind generating station accredited after that date except in certain circumstances specified in regulations.

- 14 Commons Amendment 8 also aims to clarify that the power it introduces would override the power to make provision about the use of Northern Ireland certificate in section 32F of the Electricity Act 1989.
- 15 Commons Amendment 8 would also define a relevant Northern Ireland certificate as a certificate issued in respect of energy generated using additional capacity which first formed part of the generating station after the closure date, for example, an extension to an existing accredited generating station.

Commons Amendment to Clause 80: Emissions trading: United Kingdom carbon account

Commons Amendment 9

- 16 Commons Amendment 9 would omit Clause 80 from the Bill. Clause 80 amends Section 27 of the Climate Change Act 2008, restricting the Secretary of State's power to make regulations prescribing how carbon units are to be debited or credited in calculating the "net UK carbon account". Clause 80 prevents carbon units derived from the European Union Emissions Trading System being used in calculating whether carbon budgets have been met from 2028 onwards.

Commons Amendment to Clause 83: Commencement

Commons Amendment 10

- 17 Commons Amendment 10 would provide for new Clauses inserted by Commons Amendments 6-8 to come into force on Royal Assent of the Energy Bill.

Commons Amendment to Clause 84: Short title and extent

Commons Amendment 11

- 18 Commons Amendment 11 would omit subsection (4) from Clause 84 of the Bill. Subsection (4) was inserted to avoid infringing the financial privileges of the Commons. This can be removed now that the money and ways and means resolutions have been passed.

Commons Amendment to the Long Title

Commons Amendment 12

- 19 Commons Amendment 12 would amend the long title to reflect the removal from the Bill of Clause 80: Emissions trading: UK carbon account. This provision was removed from the Bill at Commons Committee stage.

Financial Effects of Commons Amendments

- 20 Amendments 6 and 7 would provide for the closure of the Renewables Obligation to new onshore wind generating stations located within Great Britain on 31 March 2016 except in certain circumstances. This is expected to have a neutral impact on public expenditure.
- 21 Amendment 8 would allow the Secretary of State to make regulations to prevent an electricity supplier in Great Britain from discharging its renewable obligation using a ROC issued in respect of electricity generated in Northern Ireland by an onshore wind generating station after 31 March 2016, except in certain circumstances. This is expected to have a neutral impact on public expenditure.

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