

INSIGHTS

Re-shaping the UK Energy Regime in an Uncertain Political Landscape

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By: [Darren Spalding](#), [Kirsty Delaney](#) and [Adam Quigley](#)

Introduction

The UK's Energy Security Bill, first promised in 2021 and introduced to Parliament on 6 July 2022, contains a wide variety of measures which the UK Government claims will address the energy trilemma of environmental sustainability, security and affordability.

The introduction of the Bill was overshadowed by the departure from the UK Government of 37 ministers and Members of Parliament on the same day, triggering the beginning of the end for Prime Minister Boris Johnson. The Bill, touted by some as the most significant piece of energy legislation in a decade, therefore commences its legislative journey through the UK Parliament against the backdrop of an unstable and uncertain political landscape. A number of potential contenders for the role of Prime Minister have been outspoken in their criticism of Johnson's climate change agenda and, as a consequence, there are elements of the Bill that may be politically controversial.

Nevertheless, as currently drafted, the Bill would have a significant impact on the UK energy regime. The Bill's 26 measures are intended to achieve three broad aims:

- leveraging private investment in clean technologies and building a homegrown energy system;
- ensuring the safety, security and resilience of the UK's energy system; and
- reforming the UK's energy system to protect consumers from unfair pricing.

Clean technologies

The UK Government has, in recent times, focused on climate change targets and policies designed to limit UK emissions, with the UK being the first major economy in the world to enshrine a commitment to achieving net zero greenhouse gas emissions by 2050 into law in 2019. The UK Government claims that the Bill will help drive £100 billion of private sector investment by 2030 into industries to diversify Britain's energy supply and create around 480,000 jobs by the end of the decade. Whilst most of this investment is expected to be made in offshore wind, the Government also wishes to promote investment in emerging technologies such as green hydrogen production and carbon capture, use and storage, including the following measures:

- **Licensing** – Establish a licensing framework and regulatory system for hydrogen and carbon dioxide transport and storage infrastructure.
- **Hydrogen trials** – On hydrogen specifically, ensure that the government can complete its hydrogen village trial (connecting residential consumers in the relevant village to hydrogen instead of natural gas) by 2025, scaling subsequent trials to larger urban areas. Findings from these trials will inform the government’s decision on the role of hydrogen in the UK’s heat decarbonisation.
- **Battery and hydro storage** – Review and seek to remove obstacles remaining for the developers of battery-based and pumped hydro energy storage projects, including by clarifying storage as a distinct subset of generators under the Electricity Act 1989, further to a similar decision by Ofgem in 2020. These sectors have seen strong progress in recent years, and storage will be crucial as more intermittent renewable generation comes online.

Energy security

The Russian invasion of Ukraine has drawn a sharp focus on energy security for all European governments. Although the UK is not itself particularly reliant on Russian gas (with only a very small percentage of its gas supply sourced from Russia), it remains exposed to high prices in global energy markets and so the security of energy supply for a robust domestic system means that the UK oil and gas and nuclear energy sectors will continue to play a role in the UK’s energy supply for at least the medium term.

Accordingly, the Bill sets out measures which are directed at the following issues relating to the oil and gas industry:

- **Environmental standards** – Existing legislation will be updated to ensure that the offshore oil and gas environmental regulatory regime maintains high standards in respect to habitats protection and pollution response.
- **Change of control of oil and gas industry participants** – The Bill seeks to safeguard “responsible ownership” of the UK’s oil and gas and carbon storage infrastructure. The North Sea Transition Authority (“NSTA”) will be empowered to identify and prevent any potentially undesirable change of control of a licensee company holding a petroleum licence before it happens, rather than having to seek to remedy it after it has taken place (as is the case under the existing licensing structure). Undertaking a change of control without NSTA’s consent could result in the licence being revoked. In practice this is unlikely to result in any significant change, because companies currently seek an advance “comfort letter” from the NSTA in respect of a change of control in any case, but this amendment will formalise that procedure.
- **Fuel supply** – The Secretary of State will be empowered to maintain continuity of core fuel supplies and ensure that industry maintains or improves its resilience to reduce the risk of emergencies affecting fuel supplies. These measures include a direction-making

power (for example, to direct an operator to prioritise the production of a particular fuel if there is considered to be a supply threat) and an information power (for example, imposing a duty for major operators to report incidents which pose a significant threat to the continuity of fuel supply).

On nuclear energy, the UK Government aims to attract investment with the following measures:

- **Third party liability** – The Bill will enhance the nuclear third party liability regime by enabling UK accession to a second international nuclear third-party liability treaty, the Convention on Supplementary Compensation (“CSC”). The CSC is an international convention designed to provide a clear route to compensation for damages in the case of a nuclear incident. It is a freestanding instrument, independent of, and supplementary to, the Paris and Vienna Conventions.
- **Licensing requirements** – The Nuclear Installations Act 1965 will be amended to clarify that fusion energy facilities will not be subject to nuclear site licensing requirements, and therefore will not be regulated under the same regulatory regime as nuclear fission, but instead be regulated by the Health and Safety Executive and environmental regulators.

Consumer protection

Global energy prices have skyrocketed in 2022, particularly after Russia's invasion of Ukraine. This has had a significant impact on consumers, both industrial and domestic. Key measures in the Bill that are designed to protect consumers include:

- the ability to extend the energy price cap beyond 2023 if the relevant conditions for extension are met, to ensure protection for domestic supply consumers is not removed prematurely;
- granting powers to the Competition and Markets Authority to review energy network mergers, which the government estimates could save consumers up to £420 million over the next 10 years by protecting them from increasing network prices following mergers;
- supporting the development of heat networks and enable heat network zoning in England; and
- establishing a new independent body, the Future System Operator (known in the Bill as the Independent System Operator or ISOP), which will be tasked with strategic oversight across electricity and gas systems.

Commentary

On introducing the Bill, Business and Energy Secretary Kwasi Kwarteng said: *“To ensure we are no longer held hostage by rogue states and volatile markets, we must accelerate plans to build a truly clean, affordable, home-grown energy system in Britain.”*

“This is the biggest reform of our energy system in a decade. We’re going to slash red tape, get investment into the UK and grab as much global market share as possible in new technologies to make this plan a reality.”

There is no doubt that the Bill will impact the UK’s energy regime. However, critics have pointed out that the measures detailed in the Bill largely mimic the focus areas of the recent [Energy Security Strategy](#), and do not go far enough in relation to certain measures that will impact climate change, particularly in respect to onshore wind, solar power and [energy efficiency](#). In addition, the Bill does not include any reforms to the UK’s planning and permitting system that some industry participants say is preventing quicker deployment of more renewable generation capacity in the UK, particularly with respect to offshore wind.

Whether the Bill will make it through the Parliamentary process and be enacted as law is unclear given the turbulent state of UK politics, but the second reading in the House of Lords is currently scheduled for 19 July 2022.