Department of Energy & Climate Change

DECC Ninth Statement of New Regulation

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Ninth Statement of New Regulation

The Ninth Statement of New Regulation (SNR9) is the last of this parliament.

Over the parliamentary period, the Department of Energy and Climate Change (DECC) has contributed a £718.28 million reduction in annual regulatory costs on business. The majority of these reductions have been introduced within the "One-in, Two-out" (OITO) reporting period which commenced in January 2013. Since then DECC has contributed £714.55 million of savings to business, the highest of all the departments.

During SNR9, DECC will introduce measures to simplify the existing procedures for obtaining the right to use underground land for both geothermal and oil and gas, while ensuring that the existing regulatory regime remains intact. These policies have been confirmed to reduce costs to business by £0.52m and £65.09m respectively each year.

Additionally, DECC is introducing regulatory measures to address several market failures inherent in the energy market: the lack of clear information available to many domestic energy consumers; the higher costs faced by non-domestic electricity consumers in rural areas; and placing a limit on the carbon emissions from new fossil fuel power station.

Background

The Ninth Statement of New Regulation[1] (SNR9) covers regulations coming into force from 1 January to 30 June 2015. It presents a summary account of the planned regulatory activities and current OITO balance across Government Departments. It was published on 30 December by the Department for Business, Innovation and Skills (BIS). This document, published in parallel with the main BIS SNR9 document, supplements it and provides more detail on DECC's OITO position and upcoming regulations.

DECC's published balance at the end of SNR8 was a credit of £49.47m. However a £604m OUT from changes to the Energy Companies Obligation (ECO) came into force in November, during the SNR8 period**.** Our revised OITO balance for SNR8 (regulations introduced up to the end of 2014) is therefore **£653.46m** credit.[2] This balance places us first in the departmental OITO league table for SNR8.

[1] https://www.gov.uk/government/collections/one-in-two-out-statement-of-new-regulation

[2] This is assumed regulatory, subject to a decision by the Office of National Statistics (ONS) in 2015.

One-in, Two-out balance

The table below shows DECC's forecasted cumulative OITO balance as at 30 June 2015.

Table 1: DECC's forecasted cumulative OITO balance as at 30 June 2015

	Cumulative position as at 31 December 2014	Measures to be introduced during SNR9[1]	Forecast Cumulative Position at 30 June 2015
	IA Count		
INs	1	3	4
Zero net cost	6	2	8
OUTs	8	2	10
Total	**15**	**7**	**22**
	Equivalent Annual Net Cost to Business (EANCB)[2] £m		
Ins[3]	0.12	4.52	4.64
OUTs	-653.58	-65.61	-719.19
Total Net Cost	**-653.46**	**-61.09**	**-714.55**

Notes:

1. Final IN count includes the EPS regulations that have not yet been validated so are counted as £1m IN. They are expected to be a £0.05m IN.
2. EANCB: the annualised value of the present value of net costs to business.
3. OITO calculation: IN figures are doubled for presentation in the table.

Summary of measures

DECC plans to introduce two OUTs, three INs, and two Zero-Net Cost measures in scope of OITO during the SNR9 period.

The regulatory landscape for business will also be simplified in that all but six of DECC's Red Tape Challenge (RTC) commitments will have been implemented by the end of the parliament. In SNR9, this consists of eight RTC improvement measures which have been delayed from SNR8 to SNR9, and 11 measures to be scrapped and three to be improved in the Third Session Deregulation Bill.

OUTs

The two OUTs of £65.09m and £0.52m are deregulatory measures granting access rights for underground drilling for oil and gas and deep geothermal respectively.

Currently, obtaining rights to use deep-level land for the purpose of exploiting geothermal energy or oil and gas is a time-consuming and costly process. These measures will simplify the existing procedure for underground access, while ensuring that the existing regulatory regime remains intact. Both the petroleum and deep geothermal industries have made voluntary commitments to notify local communities and make payments in connection with the right to use deep-level land.

The proposed measures will not have any effect on other regulatory or legal provisions including the licensing regime (water abstraction), planning permission, health and safety regulation and environmental regulation.

INs

DECC is planning to introduce three INs during the SNR9 period.

The first is an IN of £1.19m which requires electricity suppliers to provide information on consumer bills in a machine readable format. One of the key barriers to effective consumer engagement in the retail energy market is a lack of clarity in the information provided by suppliers on tariff options and energy usage. This policy requires suppliers to provide more information to consumers to fulfil the Government's objective to ensure that almost all domestic retail energy consumers (i.e. not just customers of the largest six energy suppliers) benefit from access to data on their own energy consumption, tariff and expenditure in a form which is clear, easy to understand and facilitates frictionless data transfer. Data provided in this format will help overcome an informational barrier to consumer engagement.

The second is an IN of £0.07m which continues subsidies for non-domestic electricity consumers on Shetland. The isolated nature of Shetland's electricity infrastructure means that, in the absence of intervention, the price for electricity consumers on Shetland would be around 73% higher than that on the mainland. The objective of continuing the electricity subsidy is to limit any competitive disadvantage for smaller non-domestic electricity consumers on Shetland which would be unlikely to find a cost effective alternative (e.g. in the form of their own generation assets) to the higher costs of electricity supplies in Shetland. This ensures businesses on Shetland can stay competitive with their mainland counterparts by not facing prohibitive costs.

The final measure is a fast-track policy. The Emissions Performance Standard (EPS) is a regulatory measure that places a limit on the carbon emissions from new fossil fuel power stations. The EPS supports the planning policy requirement that no new coal plant can be built unless equipped with Carbon Capture and Storage (CCS). This is a low-cost policy that is expected to be a £0.05m IN, however it will be scored as a £1m IN for OITO purposes until it is verified by the Regulatory Policy Committee (RPC).

Zero Net Costs

DECC is planning to introduce two Zero-Net-Cost measures during the SNR9 period.

The first is the primary legislation of the Wood Review proposal for UK offshore oil and gas regulation. The independent 'Wood Review[3]' which reported in 2014, made four recommendations to address the issues it identified, the majority of which will require a greater degree of intervention by an independent upstream oil and gas regulator. This will, for example, resolve disputes, promote greater collaboration among firms and better align their private actions with social objectives for exploiting the nationally-owned resource. The primary legislation in the Infrastructure Bill takes the first step and lays the necessary groundwork for the Wood Review to be fully implemented in due course. This includes creating a framework to establish the 'Maximising Economic Recovery UK Principle[4]' in legislation, which the oil and gas

[3] See: http://www.woodreview.co.uk/

[4] Final report available: http://www.woodreview.co.uk/documents/UKCS%20Maximising%20Recovery%20Review%20FINAL%2072pp%20locked.pdf

industry will be expected to adhere to, and a power for the Secretary of State to raise a levy to fund the new UK Continental Shelf (UKCS) Regulatory Body (the Oil and Gas Authority).

The second Zero Net Cost measure is an amendment to the transposition of the EU 3rd Energy Package which will relax previous strict rules preventing transmission companies having simultaneous interests in e.g. generation, supply or gas production. Gas and electricity Transmission System Operators (TSOs) need to comply with the EU Third Energy Package ownership unbundling rules as transposed into GB legislation and be certified by Ofgem as in compliance with these rules. There is concern that the current transposition of the ownership unbundling requirements might be unduly constraining investment and that the lack of discretion available to Ofgem may mean that they are unable to certify cases that do not present any risk of discriminatory treatment. There is also evidence that GB unbundling rules are less flexible than those applied in some other Member States. The Commission has published a working document that sets out the approach it is taking to certification, which shows that that even in cases where the strict unbundling requirements are not met, certification will not be refused if the situation does not give rise to any potential conflict of interest or incentive to exploit it.

The GB ownership unbundling rules are to be amended in order to introduce further flexibility to Ofgem's consideration of certification cases that do not present a risk of discrimination, in the form of a new discretionary power to treat one or more of the five ownership unbundling tests as passed. As this pro-investment policy amends a previous EU transposition, it contributes to OITO.

European Union Measures

During the SNR9 period a UK policy will be introduced to provide stronger sanctions for a previous transposition of European legislation.

EU Regulation on wholesale market integrity and transparency (REMIT) introduces new prohibitions against market manipulation and insider dealing in energy markets and new requirements in relation to information provision. The Government has already legislated to create a civil enforcement regime, but there are cases in which the threat of civil sanctions is not sufficient to deter offending behaviours. The availability of criminal sanctions will give consumers assurance that Ofgem is able to address any issues as they arise and will create an effective deterrent. Because of the importance of alignment with the UK financial services regime, which already has criminal sanctions for market abuse, the Government believes that the creation of the additional criminal sanctions for energy market abuse is necessary to comply fully with the requirements of REMIT. DECC will not be introducing any gold-plating so as not to impose additional regulatory burdens on UK businesses.

Red Tape Challenge

The Red Tape Challenge (RTC) was a cross Government programme to review the stock of existing regulation, with the default being that regulation would go unless it was well defended. DECC led the Energy theme and contributed to the Environment theme.

Since 2011, 76 regulations have been identified to be scrapped and 40 to be improved. Of these, 29 will save time and money beyond streamlining the statute book.

Twenty-two Red Tape Challenge measures, all of which are out-of-scope of OITO, will be implemented during the SNR9 period. Of these, 14 were planned to be implemented during SNR9, and the remaining eight were delayed from SNR8.

Fourteen, 11 to be scrapped and 3 to be improved, have been included in the Third Session Deregulation Bill which is expected to receive Royal Assent in February or March 2015.

Two RTC measures on Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013, due for completion in December 2014, have been delayed to the end of January 2015 and have therefore been moved from SNR8 period to SNR9.

Six additional RTC measures on Petroleum (Production) (Seaward Areas) Regulations 1988 have also been delayed from SNR8 to SNR9.

Besides six regulations that cannot be scrapped until 2016 and 2018[5], all of DECC's RTC commitments will be implemented by the end of this parliament.

One-in, One-out

One further measure related to the rollout of smart metres across the UK is coming into force during the SNR9 period.

The smart meter programme and its impacts on the UK have already been accounted for under the previous "One-in, One-out" (OIOO) system and so have no effect on the "One-in, Two-out" balance.

Impact Assessments

DECC publishes full Impact Assessments for all of its major regulatory measures, and for many of its more minor ones. These are scrutinised by the Regulatory Policy Committee (RPC), an independent body comprised of businesspeople and economists.

See the statement in full[6] for an overview of the regulations due to come into force between 1 January and 30 June 2015 across all Government departments.

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[5] Two regulations will be scrapped in 2016 when new policy is laid. The remaining four regulations will be scrapped at the end of an enforcement regime by Ofgem.

[6] https://www.gov.uk/government/collections/one-in-two-out-statement-of-new-regulation

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