Energy Prices Bill

Lead department	Department for Business, Energy and Industrial Strategy
Summary of proposal	The Government have introduced a package of measures, designed to support consumers in light of recent, and ongoing, rises in energy prices.
Submission type	Impact assessment (IA) – 10 October 2022
Legislation type	Primary legislation
Implementation date	1 October 2022
Policy stage	Final
RPC reference	RPC-BEIS-5234(1)
Opinion type	Formal
Date of issue	1 November 2022

RPC opinion

Rating[1]	**RPC opinion**
Not fit for purpose	The IAs do not adequately consider, in line with RPC guidance, the full impacts of the measures the bill would introduce, including impacts upon small and micro businesses. In addition, the Department has not supported the analysis, and key assumptions, with robust evidence or clear explanations. The RPC is, therefore, unable to validate the EANDCB and certify that the IA is fit for purpose.

Business impact target assessment

	Department assessment	**RPC validated**
Classification	Qualifying regulatory provision	Qualifying regulatory provision
Equivalent annual net direct cost to business (EANDCB)	Not quantified	Unable to validate
Business impact target (BIT) score		
Business net present value		
Overall net present value		

[1] The RPC opinion rating is based only on the robustness of the EANDCB and quality of the SaMBA, as set out in the Better Regulation Framework. RPC ratings are fit for purpose or not fit for purpose.

RPC summary

Category	Quality[2]	RPC comments
EANDCB	**Red**	The Department has not adequately considered the full impacts (of both primary and expected, related secondary legislation) of all of the measures covered by the bill, including those which would have a direct impact resulting from the primary legislation (e.g. landlord costs). In addition, there is insufficient evidence to support the analysis and assumptions made for the indicative assessment of expected, related secondary legislation. The RPC is, therefore, unable to validate the EANDCB for those elements to be enacted via primary legislation. The Department must provide sufficient assessment to enable validation.
Small and micro business assessment (SaMBA)	**Red**	The IAs attempt to identify the range of small and micro businesses (SMBs) within scope of the respective measures, however the department needs to go further in attempting to understand the number of SMBs covered by the measures (in particular landlords charging all-inclusive rents). The Department must explain what mitigation has been considered for SMBs on which the requirements may have a disproportionate impact.
Rationale and options	**Weak**	The Department identifies some market failures, however, the IA needs to include better evidence to support intervention. The IA would be further improved by considering additional options that could deliver the key objectives, in particular those seeking to tackle the revenues made by non-carbon energy generators.
Cost-benefit analysis	**Weak**	The IAs need to explain how all the quantified impacts, including those that are, at present, indicative, have been estimated. In addition, the Department should reconsider the usage of a one-year appraisal period for the *Heat Networks Emergency Legislation* IA, as it appears that this policy will have longer term impacts.
Wider impacts	**Satisfactory**	The Department has included a good degree of analysis of the impacts upon the public sector, primarily the costs to the Exchequer. In addition, there is consideration, across the IAs, of the effect of energy price rises, as well as these policies, on different segments of society. The IAs would benefit from consideration of the competition and

[2] The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. Please find the definitions of the RPC quality ratings here.

		investments impacts, and developing further the distributional and environmental analysis.
Monitoring and evaluation plan	**Satisfactory**	The Department includes a good level of detail on its monitoring and evaluation (M&E) intentions for some, but not all, of the IAs. The Department should look to develop M&E plans for all IAs, as well as considering whether an overarching M&E plan would be suitable.

Summary of proposal

The rate at which energy bills have increased has seen many households struggle to keep up with payments and, therefore, have to make difficult spending decisions. In light of the recent energy price rises, and the continued squeeze on budgets due to inflationary pressures, the Government have introduced a range of legislation to support households and businesses with their energy bills. The Department has produced five separate IAs to support the Energy Prices Bill, including:

A. Supernormal revenues;
B. Energy Price Guarantee (EPG) – Domestic;
C. Energy Bills Support Scheme (EBSS);
D. Heat Networks Emergency Legislation; and
E. Energy Bill Relief Scheme (EBRS).

The IAs discuss a range of impacts, including those on government funding for the relevant support packages and relief payments, the cost to energy generators and suppliers administering the schemes and carrying out the corresponding requirements, as well as the benefits to those currently facing elevated energy prices. The Department has not provided an overall assessment of the expected collective impact of the bill, meaning that there is no clear EANDCB figure submitted for validation; and neither is a net -present value provided that captures all quantified impacts. A summary of the impacts identified by the Department, and the scale of the quantified impacts for each individual IA submitted, can be found in Annex A.

RPC's scrutiny process in the context of these measures

While no overarching summary IA has been submitted, the RPC has produced an opinion encompassing all five separate IAs that were submitted for RPC scrutiny and to support parliamentary consideration of the bill. This approach is in keeping with how the RPC has reviewed other bill IAs, where multiple IAs are included as supporting annexes.

The IAs were published very soon after their submission for RPC scrutiny. Consequently, the RPC has issued this formal opinion without, first, issuing an initial review notice, as is standard practice when red-rated issues are identified in final stage IAs. As a result, the Department will not have the opportunity to rectify these shortcomings via the usual process before any enactment stage IA.

The IAs submitted for RPC scrutiny include government expenditure measures that, as set out in the Better Regulation Framework[3] (BRF), are excluded from the definition of regulatory provisions. As such, these are not the primary focus of the RPC's scrutiny in this opinion, or reflected in the red-rating issued. This opinion's assessment of the quality of the submissions, and evidence to support them, focuses on those measures that seek to introduce new regulatory requirements on business.

EANDCB

Identification and quantification of impacts

The IAs submitted follow different approaches to considering the impacts of the relevant legislation. The *Supernormal Revenue* and *Heat Networks Emergency Legislation* IAs attempt to provide an analysis of the impacts of the policies in line with Scenario 2 (as set out in RPC Primary legislation guidance[4] , as they require related secondary legislation. Meanwhile, the remaining three IAs (on the *EPG, EBSS* and *EBRS*) provide a Scenario 1 assessment (also defined in the same RPC guidance) of the measures, as they are enacting primary legislation.

While the Department has undertaken, and included, a good degree of analysis on government expenditure for the support/relief schemes covered by the bill, there is not a similar level of analysis of all likely impacts upon business. In particular, the Department has not fully considered the impacts of both primary, and related secondary, legislation for the *Supernormal Revenues* IA (including no indication of the expected scale of impacts of the secondary legislation options); there is insufficient assessment of the impacts on landlords in the *EPG* and *EBSS* IAs; and the indicative analysis included in the *Heat Networks Emergency Legislation* IA is not explained sufficiently, or supported by evidence.

With respect to the *Supernormal Revenues* IA, there is potential for the related secondary legislation being considered to introduce further regulatory requirements upon non-carbon generators, which would put it in scope of the BRF. The Department needs to provide a better indicative assessment of the likely impacts of the secondary legislation. While the Department notes that the specific direction of this future legislation is still to be decided, an indicative assessment needs to be included for those potential options that have been identified. In addition, in the Department's consideration of the *Temporary Revenue Limit*, the IA should consider the recent measures adopted by the EU, to introduce a similar levy on generators, as this would help support an assessment of the scale of likely impacts. Furthermore, the assessment of the indicative impacts of a *Generation Revenues Contracts* could be supported by drawing upon research (e.g., by the UK Energy Research Centre, Cornwall Insight, or the industry trade body Energy UK). This lack of sufficient assessment of the full impact of this policy is a red-rateable point.

[3] https://www.gov.uk/government/publications/better-regulation-framework
[4] https://www.gov.uk/government/publications/rpc-case-histories-primary-legislation-ias-august-2019

For the *EPG* and *EBSS* IAs, the Department highlights that new powers will be introduced to require landlords (offering all-inclusive rents) to pass on payments made to them, to their tenants. As this requirement is discussed as a new power to be introduced, the RPC views this as being in scope of the BRF. The Department state that the impacts are expected to be administrative and minimal, while they do not attempt to estimate the impact upon landlords likely to be affected by the respective measures. Furthermore, the Department has not considered how, or if, these measures will be enforced, as well as what impacts any enforcement activity would have. The IAs do not provide evidence to support these views and assumptions that the impacts will be administrative and minimal. Given that this is a new requirement upon landlords, who are likely to be smaller businesses and lack experience of complying with such a requirement, it is not immediately clear, without supporting evidence, why the costs would be minimal. As this would be a direct impact of the primary legislation, the uncertainty over these costs prevents the RPC from validating the EANDCB as fit-for-purpose. Therefore, this lack of appropriate consideration and quantification of the impact to landlords is a red-rateable point.

While the Department has included some indicative costs for the expected secondary legislation related to the *Heat Networks Emergency Legislation* IA, these impacts are not explained or supported by appropriate evidence. In addition, the IA refers to the Department's lack of evidence/data for heat networks, limiting its ability to assess the impacts fully. However, the Department has recently produced, and published, consultation stage IAs for heat networks (exploring the creation of a market framework, as well as zoning legislation) which included a range of evidence that should still be applicable for use in the assessment of these indicative impacts. Therefore, this lack of clarity and explanation of the source of the indicative analysis is a red-rateable point.

Furthermore, the Department has failed to provide an overarching summary IA. Given the clear overlaps in objectives and impacts, which are highlighted across the IAs, the submission should consider the aggregate impact of the measures upon key stakeholder groups, such as suppliers (who will be required to enact the various schemes introduced), landlords (who will be required to pass on any payments made to them on behalf of their tenants), government (through the funding of the various support schemes) and consumers (who stand to benefit from an easing of the cost of their energy usage). In addition, these IA do not consider, apart from brief reference to environmental impacts of higher energy consumption, the potential for distorted incentives that may result from the collective measures. The IA does not discuss whether, and how consumers who are not exposed to the true cost of the energy they consume, are less incentivised to reduce their usage. The wider implications of this may lead to greater demand in the UK, at same time as other countries are attempting to subsidise household or business energy usage. Further implications that the IA should consider is whether this could result in perpetuating further the rising cost of energy.

Unmonetised impacts

There are several impacts (such as, but not limited to, that upon landlords, the costs to *Ofgem* of enforcing the EPG and the societal costs of increased energy consumption) that are as yet unmonetised across the various IAs. Given the scale of the interventions being made, and of the impacts that are quantified, the Department should seek to quantify these as much as possible, even if only for illustrative purposes at this time.

Future assessment

The Department states that further IAs will be produced, as appropriate, for any related secondary legislation. The RPC would expect to see much more detailed qualitative and quantitative cost-benefit analyses in these IAs accompanying the related secondary legislation. The RPC would welcome discussion with the Department prior to the submission of IAs produced to accompany future secondary legislation.

SaMBA

Scope

While the Department has included some consideration of the impacts upon SMBs across the five IAs, the quality of the identification of the scope of impacts and businesses affected, does not match the expectations set out in RPC SaMBA guidance[5]. As noted in the comments above on the EANDCB, the Department's consideration and assessment of the impacts on landlords are insufficient. Given the likelihood of landlords being SMBs, the Department needs to consider fully whether any impact on them is likely to be disproportionate.

Exemption and mitigation

The Department explains clearly, in the relevant IAs, why it is not feasible to exempt SMBs from the requirements, given the objective to protect consumers. However, the Department must explain what mitigation has been considered to support SMBs, on which the proposals, and the new requirements they face, may have a disproportionate impact. The lack of consideration of mitigation, alongside the insufficient assessment of the impacts on SMBs, is a red-rated point.

[5] https://www.gov.uk/government/publications/small-and-micro-business-assessment-samba-guidance

Consideration of exemption for medium enterprises

The Department should ensure that there has been appropriate consideration of the new requirement to exempt businesses with up to 499 employees from new regulation, as introduced by the Government in October 2022, when considering what future secondary legislation may be introduced.

Rationale and options

Rationale

The Department identifies some market failures across the five IAs, such as the negative externalities (including health and social outcomes) associated with the underconsumption of energy by consumers, the market power concerns over the pricing of energy and information asymmetries, to support the rationale for intervention. However, while the Department identifies these market failures, in order to make a strong case for intervention, the IAs need to provide clear evidence to support the arguments made across the IAs.

In addition, the Department provides background information on energy prices and consumers' ability to pay, as well as describing the landscape of policies the Government have introduced to date in response to the rising costs of energy and consumers' (both domestic and non-domestic) inability to pay. The IAs should address how successful these interventions have been and what evaluation of the effectiveness of these prior policies, has informed the design of the interventions introduced by the bill.

Options

The Department does well to set out and describe the range of policies already in place, including in some instances voluntary action by industry, seeking to address the issues and market failures identified. The IA would be improved by discussing what non-regulatory options could be implemented alongside the preferred regulatory approach. The IA should have included discussion of why some measures could not be targeted better at helping the most vulnerable energy consumers. In addition, the *Supernormal Revenues* IA would be improved by considering additional options that could deliver the key objectives, in particular those seeking to tackle the revenues made by non-carbon energy generators.

Cost-benefit analysis

Evidence and data

The Department needs to ensure that all of the analysis in the IAs, including that which is indicative at this stage, is well supported by appropriate, robust and timely evidence. At present some analysis and costings, such as that included in the *Heat Networks Emergency Legislation* IA, does not explain clearly what evidence has informed the costings or how it has been used.

Methodology
The *Heat Networks Emergency Legislation* IA states that a one-year appraisal period has been used in its indicative analysis of the impacts of expected secondary legislation. However, the IA sets out that this will introduce new, and ongoing, regulation of heat networks, which suggests an under-estimation of the continued cost of compliance for business, as well as enforcement and monitoring costs for the Ombudsman and the Office for Product Safety and Standards (OPSS), respectively. The IA should consider whether all impacts should be assessed over a standard appraisal period (e.g. 10 years).

More generally, the Department needs to ensure that all analysis, and resulting costs stated in the IAs, are explained clearly and that all steps carried out in estimating these impacts have been identified.

Wider impacts

Competition
The Department has not considered the effects of the legislation on competition. The *Supernormal Revenues* and *Heat Networks Emergency Legislation* IAs should include discussion of the impacts upon affected businesses and their ability to compete with other businesses in the same (or adjacent) market(s).

International trade and investment
The *Supernormal Revenue* and *Heat Networks Emergency Legislation* IAs would benefit from consideration of the impacts on investment. With the supernormal revenue policy focussing on non-carbon generators, the IA should consider the implications for the investment in, and growth of, these sectors. Similarly, with heat networks likely to see further regulation as a result of this legislation, the Department should consider whether there would be similar impacts upon the investment in, and adoption of, heat networks.

Environmental
The Department cites as costs across the IAs submitted, the negative externalities (e.g. increased greenhouse gas emissions) that may result from the consumption of energy. In addition, the Department makes a brief reference to the Government's long-term aim to achieve Net Zero. As The *Supernormal Revenues* measure is targeted at non-carbon energy generators, IA should address, whether limiting the revenue generation of such businesses may limit the rate of adoption and growth of the non-carbon generators and slow the progress towards achieving Net Zero. With the move towards Net Zero presumably looking to encourage a diversification away from carbon generated energy, any threat to the return-on-investment of non-carbon generators, may risk discouraging the type of dynamic response that the Government wish to encourage. In addition, the IA could make some reference, to

the possible impact of a levy (or other form of intervention), on nuclear energy firms in negotiations for future nuclear plants.

Equality and distributional impacts
The Department has done well to take into consideration across several of the IAs, the distributional effects of energy prices, focusing primarily on groups with protected characteristics but also those with low incomes, with a continued consideration of the impacts on consumers (and subsets within) across the IAs. All of the IAs submitted would be improved by clarifying the coverage of the proposed measures across the UK, given that some measures would introduce new legislation for Northern Ireland, and it might be assumed that the UK as a whole is covered. If this is the case, then all of the IAs would benefit from looking at regional variations in the composition of energy usage/consumption, as well as the mix in forms of energy generation and supply, assessing whether any of the measures will have a more localised effect.

Additional consumer impacts
The Department has not considered what impacts upon energy supply there may be and, therefore, whether there may be an increased risk of shortages or rationing. Furthermore, the cost of supressing the pass-through of current high wholesale prices to retail prices has not been fully considered. Such measures may lead to an allocation of energy away from socially valuable uses when there is a supply issue.

Public Sector
The Department has considered in detail the impact upon the Exchequer from the funding required to support the various schemes, as well as the consideration of the impact of forgone tax revenues. Where relevant, the Department has also considered the impacts to other public sector bodies such as *Ofgem*.

Monitoring and evaluation plan

The Department has included detailed M&E plans for three of the submitted IAs (*EPG*, *EBSS* and *EBRS*), including relevant theories of change, as well as plans for process, impact and value-for-money evaluations. The M&E plans would be strengthened by identifying metrics that could be used to assess the success of the measures. The Department has not considered what M&E activities would be appropriate for the remaining two IAs, stating that these will be developed as necessary when introducing secondary legislation. The Department should develop M&E activities for these two IAs, given the policy objectives (which will not change significantly between primary and secondary legislation) are clearly identified and an initial M&E framework should be developed from these.

Given the collective effort of these measures to combat rising energy prices for consumers, both domestic and non-domestic, as well as the continued reference to the ineffectiveness of current measures in place to tackle these problems, the Department should have considered developing an overarching M&E strategy across all of the measures. This could look at both the effectiveness of the implementation plan, as well as the impact upon energy bills and energy consumption levels, to provide future governments with effective evaluation and feedback of these measures.

Other comments

Updating of analysis to reflect new Government direction

The IAs scrutinised by the RPC reflect government policy at the time of submission. During the RPC's scrutiny period, the Government indicated a shift in policy direction for the support and relief schemes covered by the bill and supporting IAs. As these changes are a matter of government expenditure, more so than regulatory provisions, the RPC did not deem it necessary to review updated analysis of the amended schemes. However, the Department should still seek to update and refine this analysis, and IAs as appropriate, to reflect the new level of government support that will be offered.

Regulatory Policy Committee

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Annex A: Overview of IAs reviewed

	Description of measures	Impacts Identified by the department	Quantified impacts
Supernormal revenues	The primary legislation will provide broad powers for the SoS to, through future secondary legislation, introduce policy designed to tackle excessive profits being made by low-carbon energy generators.	*Costs* - Loss of revenue for generators; - Wider impacts upon inflation. *Benefits* - Reduced costs for suppliers; and - Lower energy bills for consumers.	Not quantified
Energy Price Guarantee (EPG) - Domestic	The legislation introduce a government funded EPG for a two-year period (from October 2022 through to September 2024) Furthermore, this legislation will introduce requirements for landlords who offer all-inclusive rents, to pass on the benefits of such schemes to tenants.	*Costs* - Cost of the grant for domestic gas and electricity; - Support for hard-to-reach customers; - Lost VAT revenue; - Government administrative costs; - Business administrative costs (including familiarisation, reporting and delivery of the EPG to customers); and - Negative externalities associated with energy consumption. *Benefits*	Not quantified

		- Lower energy bills for consumers; - Avoidance of negative health and social outcomes from underconsumption of energy; and - Reduced inflationary pressure.	
Energy Bills Support Scheme	The legislation will implement a £400 energy grant per household (over a period of six-months), to reduce domestic energy costs. The legislation will also introduce, for the first time, a comparable scheme in Northern Ireland. Furthermore, this legislation will introduce requirements for landlords who offer all-inclusive rents, to pass on the benefits of such schemes to tenants.	<u>*Costs*</u> - Cost to government of funding the EBSS; - The public sector costs of the EBSS design and delivery; - The administrative costs of energy suppliers delivering the savings to customers; and - The negative externalities associated with energy consumption. <u>*Benefits*</u> - Lower energy bills for consumers; and - Avoidance of negative health and social outcomes from underconsumption of energy.	Social net present value (SNPV) -£6,267 million
Heat Networks Emergency Legislation	The legislation will introduce powers for future regulation of the Heat Networks sector, which	<u>*Costs*</u> - Costs to heat network operators to comply with	Staff costs of £3.5 million for heat network operators.

	faces comparatively less regulation than the wider energy sector.	new notification requirements; - Resourcing costs for OPSS to enable increased monitoring requirements; and - Resourcing costs for the energy ombudsman. *<u>Benefits</u>* - Heat network users will benefit from increased regulation of operators.	Resourcing costs estimated at £0.5 million for both OPSS and the Energy Ombudsman, respectively.
Energy Bill Relief Scheme (EBRS)	The legislation reduce the cost of gas and electricity for non-domestics consumers, based on the timing and type of energy contract they have entered into.	*<u>Costs</u>* - Administrative and familiarisation costs for energy suppliers; and - Costs to government of funding the relief scheme. *<u>Benefits</u>* - Avoidance of negative business outcomes (e.g., closures and redundancies) from underconsumption of energy.	EANDCB (for the 6-month period) of £20 million