



Department for
Business, Energy
& Industrial Strategy

Energy Security Bill Policy Statement

Oil and Gas Environmental Protection

January 2023



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Any enquiries regarding this publication should be sent to us at: energybill2021@beis.gov.uk

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Background

The Energy Security Bill was introduced into Parliament on 6 July 2022. This Bill will deliver a cleaner, more affordable and secure energy system for the long term. It builds on the ambitious commitments in the Prime Minister's Ten Point Plan and the British Energy Security Strategy to invest in homegrown energy and maintain the diversity and resilience of the UK's energy supply.

The Energy Security Bill contains provisions to allow the Secretary of State to make regulations (delegated powers) linked to planning and response for offshore oil pollution from oil and gas activities, and for offshore oil and gas habitats assessment. Such powers will allow for the scope of these regulatory areas to be extended to emerging technologies, such as hydrogen production and storage and in the case of offshore oil pollution planning and response - offshore carbon dioxide storage.

Oil and Gas - Environmental Protection

A range of EU-derived legislation has contributed to the establishment of a comprehensive environmental regulatory regime for UK offshore oil and gas activities. To ensure new offshore technologies and industries (such as carbon dioxide storage and hydrogen production and storage) are robustly regulated, primary powers are needed in respect to offshore habitats assessment and offshore oil pollution planning and response. The powers relate to matters that fall within the offshore oil and gas environmental regulatory regime and extend to the United Kingdom's territorial sea and Continental Shelf.

The inclusion of suitable primary powers in the Energy Security Bill would ensure that the offshore oil and gas environmental regulatory regime remains fit for purpose and maintains existing standards of environmental protection. The powers would enable the making of regulations linked to two areas of extant secondary legislation – (1) offshore habitats assessment and (2) offshore emergency oil pollution planning and response. The powers would ensure that the Secretary of State is able to adequately: (i) cater for emerging offshore technologies such as carbon dioxide storage and hydrogen production and storage; (ii) implement changes, in line with emerging best practice; (iii) implement lessons learned from future offshore incidents; and (iv) respond to changes in policy delivery required to meet the challenges of net zero.

Gaining the necessary primary legislative powers would allow the Secretary of State to introduce secondary legislation, as required, at a future point, to ensure the offshore oil and gas environmental regulatory regime can evolve and remain effective in its purpose, whilst maintaining environmental standards. The commitments set out in the Energy White Paper, Net Zero Strategy and Energy Security Strategy demonstrate the urgency and necessity linked to enabling new offshore technologies (such as carbon dioxide storage and hydrogen production and storage) to meet such commitments. The intention is to ensure oil pollution planning and response and habitats assessment apply to such new offshore technologies. The

absence of existing suitable primary powers to make secondary legislation is a key reason for seeking powers at this time.

Policy design - Arrangements for responding to marine oil pollution

This statement describes the intended policy of the delegated powers pertaining to arrangements for responding to marine oil pollution within the Energy Security Bill. The Bill provides delegated powers to ensure that offshore oil and gas activities and the offshore production and storage of gas, including new technologies such as those for carbon dioxide storage and hydrogen production and storage, are subject to emergency oil pollution planning and response requirements. Emergency plans and response requirements may be required for infrastructure related to such technologies i.e., carbon dioxide storage installations or wells. Regulations made under this clause may make provisions in relation to:

- the meanings of expressions and terms used;
- conferring functions on persons to be able to undertake inspections;
- providing for the charging of fees;
- management of information;
- creating criminal offences or civil penalties;
- securing compliance.

Policy design - Habitats: reducing effects of offshore oil and gas activities etc.

This statement describes the intended policy of the delegated powers appertaining to the arrangement for habitats assessment in relation to offshore oil and gas activities and the offshore production and storage of gas within the Energy Security Bill. The Bill sets out that the delegated powers can be used to ensure that these activities are subject to habitats assessment. Consequently, the impact of these activities on relevant protected sites and species should be assessed and mitigated where required. The powers would ensure that certain activities could not be undertaken, or certain licences, authorisations etc. could not be granted, unless the Secretary of State has consented to them, following a habitats assessment. There are additional powers to ensure habitats consent conditions could be enforced and, where appropriate, directions given, in order to avoid, reverse, reduce or eliminate adverse effects on relevant sites, or the deterioration or disturbance of habitats and species.

For example, it is intended to exercise the powers to extend the requirement for offshore geophysical surveys consent to be obtained prior to undertaking such surveys in relation to hydrogen production and storage, and to allow for conditions to be attached to survey consents.

The powers enable habitats assessment and consenting functions to be exercised by Scottish Ministers where the activity relates to carbon dioxide storage in the territorial sea adjacent to Scotland.

Regulations made under this clause may make provisions in relation to:

- the meanings of expressions and terms used;
- conferring functions on persons to be able to undertake inspections;
- modifying or revoking a survey consent issued under regulations;
- the charging of fees;
- management of information;
- criminal offences or civil penalties; and
- securing compliance.

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