

EXPLANATORY MEMORANDUM TO

THE STRATEGY AND POLICY STATEMENT FOR ENERGY POLICY IN GREAT BRITAIN 2024

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty in accordance with the Energy Act 2013.
- 1.1 This memorandum contains information for the Joint Committee on Statutory Instruments

2. Declaration

- 2.1 Amanda Solloway, Minister for Affordability and Skills at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Jane Walker, Deputy Director for Retail Markets and Consumers, at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Kyle Winter at the Department for Energy Security and Net Zero email: kyle.winter@energysecurity.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 The Strategy and Policy Statement (SPS) will provide guiding principles for the Secretary of State, Ofgem and the Independent System Operator and Planner (ISOP; referred to as National Energy System Operator/NESO within the SPS), (once established). As the independent regulator for Great Britain, Ofgem cannot be directed by government on how it should make decisions. However, Secretary of State, Ofgem and ISOP will be required to have regard to the strategic priorities in the SPS when carrying out their functions; and Ofgem, and Secretary of State will be required to carry out their functions in the manner which they consider best calculated to further the delivery of the policy outcomes. This statement will therefore support strategic alignment between government, Ofgem, ISOP and industry through making clear what government wants to achieve in the energy sector, including enabling anticipatory investment and innovation in the energy sector – a key sector for economic growth.

Where does the legislation extend to, and apply?

- 4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.
- 4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

5. Policy Context

What is being done and why?

- 5.1 The development of a Strategy and policy Statement is a statutory requirement under Part 5 of the Energy Act 2013. The SPS sets out (a) the strategic priorities, and other main considerations, of His Majesty's government in formulating its energy policy for Great Britain; (b) the particular outcomes to be achieved as a result of the implementation of that policy; and (c) the roles and responsibilities of persons (whether the Secretary of State, Ofgem, the Independent System Operator and Planner or other persons who are involved in implementing that policy or who have other functions that are affected by it).
- 5.2 The SPS is intended to provide guidance to the energy sector on the actions and decisions that are needed to deliver government's policy goals and places emphasis on where government expects a shift in the energy industry's strategic direction. As the independent regulator for Great Britain, Ofgem cannot be directed by government on how it should make decisions. However, the SPS will provide guiding principles for Ofgem and the Independent System Operator and Planner (ISOP or National Energy System Operator as it is referred to in the SPS) (once established).

What was the previous policy, how is this different?

- 5.3 Given that the designation of an SPS is a statutory requirement, this will be the first SPS for energy ever laid in parliament since the Energy Act 2013 came into force. This SPS does not propose new policies or duties, it highlights governments' key priorities and goals within existing government policy to promote alignment between government, the regulator(s) and industry.
- 5.4 Once designated, the SPS will replace the Social and Environmental Guidance that was issued to Ofgem, pursuant to section 4AB(4) of the Gas Act 1986 and section 3B(4) of the Electricity Act 1989.
- 5.5 The Social and Environmental Guidance was last issued to Ofgem in 2011. The SPS differs from the Social and Environmental Guidance in that it provides a more detailed description of the role of Ofgem in delivering government's priorities for energy policy, reflects the new roles given to Ofgem since 2011, and describes the roles of the Independent System Operator, therefore providing strategic alignment between the three bodies (government, Ofgem and ISOP).

6. Legislative and Legal Context

How has the law changed?

- 6.1 The law will not change based on the introduction of this SPS. However, parts of the Energy Act 2013 which are already in existence will apply to the relevant stakeholders due to the introduction of the SPS. Secretary of State, Ofgem and the Independent System Operator and Planner will be required to have regard to the strategic priorities in the SPS when carrying out their functions; and Ofgem, and Secretary of State will be required to carry out their functions in the manner which they consider best calculated to further the delivery of the policy outcomes.

Why was this approach taken to change the law?

- 6.2 As indicated above, there will be no change in law, but rather, the implementation of existing statutory provisions under part 5 of the Energy Act 2013. The SPS will implement part 5 of the Energy Act 2013 and will essentially become an official

document once it is passed by both Houses of Parliament and designated by the Secretary of State.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 We have conducted two consultations as per the statutory requirements under part 5 of the Energy Act 2013. The first consultation was conducted with Ofgem, Welsh Government and Scottish Government, who were the required consultees as per the legislation. The second was a public consultation which included responses from the required consultees as well as industry, academia and members of the public. The summary of responses will be laid alongside the SPS, and the GOV.UK page can be found here: <https://www.gov.uk/government/consultations/strategy-and-policy-statement-for-energy-policy-in-great-britain> In general, respondents were largely encouraging towards the creation of an SPS to give direction on government's priorities and direction of travel.

8. Applicable Guidance

- 8.1 The SPS does not have any applicable guidance nor does it require guidance to be developed under it.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because the SPS contains no new policy or duties, it is comprised of existing government commitments.

Impact on businesses, charities and voluntary bodies

- 9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the SPS contains no new policy or duties, it is comprised of existing government commitments.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 There is no impact on the public sector because the SPS does not contain any new policy or duties. Secretary of State, Ofgem and ISOP will be required to have regard to the strategic priorities in the SPS when carrying out their functions; and Ofgem, and Secretary of State will have to carry out their functions in the manner which they consider best calculated to further the delivery of the policy outcomes.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The approach to monitoring this legislation is informed by the legal framework of the Energy Act 2013. This means that Ofgem, ISOP and Secretary of State all have a duty to have regard to the strategic priorities within the SPS. Ofgem must also give notice to the Secretary of State if at any time it concludes that a policy outcome contained in the strategy and policy statement is not realistically achievable. Ofgem must also publish a strategy showing how it will further the delivery of the policy outcomes within the SPS, and its Annual Report must assess its contribution to delivery of the policy outcomes. Additionally, the Energy Act 2013 sets out how and when the SPS

must be updated, including a number of potential triggers for review, such as a general election.

- 10.2 A number of statutory review clauses are included in part 5 of the Energy Act 2013

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 None.

12. European Convention on Human Rights

- 12.1 The Minister for Affordability and Skills has made the following statement regarding Human Rights:

“In my view the provisions of the Strategy and Policy Statement for Energy Policy in Great Britain are compatible with the Convention rights.”

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).