

## LEGISLATIVE CONSENT MEMORANDUM

### THE ENERGY PRICES BILL

1. This legislative consent memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Energy Prices Bill (“the Bill”) was introduced in the House of Commons on 12 October 2022. The Bill can be found on the UK Parliament Website: [Energy Prices Bill - Parliamentary Bills - UK Parliament](#).

#### Policy Objectives

3. The UK Government’s stated policy objectives are to support households and businesses by providing the legislative framework to deliver the UK government’s Energy Price Guarantee and Energy Bill Relief Scheme.
4. These schemes will apply to all domestic and non-domestic consumers on the grid and will ensure that support covers the increase in costs from October. The Bill will also support domestic and non-domestic consumers who are not captured by either scheme, including those using alternative fuels such as heating oil, living in park homes, or those on heat networks.
5. The Bill is also legislating for powers to set a temporary fixed price for low carbon generators not already on a Contracts for Difference (CfD), limiting the revenue they are able to achieve in the wholesale market. The temporary fixed price is intended to be a short-term intervention, aiming to reduce the immediate impact of abnormally high wholesale prices on consumers. Secondary legislation will set out which categories of generators will be in scope and an appropriate level of revenue those generators can achieve in the market.

#### Summary of the Bill

6. The Bill is sponsored by the Department for Business, Energy and Industrial Strategy. It introduces:
  - powers enabling the Secretary of State to establish domestic electricity and gas price reduction schemes for Great Britain and supplementary provision, including powers enabling the Secretary of State to make regulations which are subject to the negative procedure (see clauses 1-4 and Schedule 6);

- powers enabling the Secretary of State to make regulations about reducing the amount payable in respect of non-domestic electricity supplied by licenced suppliers and making payments to suppliers in respect of those reductions, which are subject to the affirmative procedure (see clauses 9 and 10 and Schedules 1 and 6);
- powers enabling the Secretary of State to give support for meeting energy costs etc (see clauses 13 and 14 and Schedule 6); and make regulations about bodies designated to have a role in the giving of such support, which are subject to the negative procedure (see clause 15);
- powers enabling the Secretary of State to make regulations requiring payments to be made to an administrator by electricity generators for the purpose of funding payments to electricity suppliers connected to reduced costs to customers, or meeting the Secretary of State's expenditure in reducing such costs. The first such regulations are subject to the affirmative procedure, and to the negative procedure thereafter (see clauses 16 and 17);
- amendments to the Electricity Act 2013 enabling the Secretary of State to make regulations about contracts for difference in relation to low-carbon electricity generators, new powers so created being subject to the affirmative procedure (see clause 18);
- powers enabling the Secretary of State to make regulations imposing requirements to pass on energy price support for consumers, subject to the affirmative procedure (see clause 19);
- amendments to the Domestic Gas and Electricity (Tariff Cap) Act 2018 (see clause 20 and Schedule 3);
- powers enabling the Secretary of State to modify licences or the purpose of section 4 of the Electricity Act 1989 and section 5 of the Gas Act 1986 (see clause 21);
- power enabling the Secretary of State to give directions in response to the energy crisis or in connection with provision in or under the Bill (see clause 22)

### **Provisions in the Bill for which consent is required**

7. The following clauses make 'relevant provision' for the purposes of Standing Order 29.1.
8. The purpose of clauses 13 (power of the Secretary of State to give support for meeting energy costs etc); 14 (procedure and reporting in connection with section 13); 15 (role of other bodies in giving support for meeting energy costs etc); and 19 (requirement to pass on energy price support to end users) is to create the powers enabling the establishment of a discretionary scheme for the provision of financial and other support in meeting the cost of energy etc. and passing on the benefit of such support to end users. The kinds of support in question, aimed at tackling financial hardship, are neither within the scope of any of the reservations under "Head D – Energy" in Schedule 7A to the Government of Wales Act 2016, nor any other reservation listed in that Schedule.

9. Clause 22 (power of the Secretary of State to give directions) confers broad powers of direction on the Secretary of State. Although under clause 22(3)(b) only a person who holds an energy licence may be subject to such a direction, the power is not expressly limited to the activities of licence holders in reserved areas.

### **UK Government view on the need for consent**

10. The UK Government agrees that the clauses mentioned in paragraphs 7 to 9 above require the consent of the Senedd.

### **Reasons for making these provisions for Wales in the Energy Prices Bill**

11. The Bill contains provisions that will help the people of Wales. The establishment of a legislative framework that allows for a scheme to reduce the price of electricity and gas to a domestic customer on the GB system is a positive step especially during this cost of living crisis. The suggested mechanisms to directly deliver the savings are efficient.
12. It is essential for support to reach the people or businesses they are intended to protect against the excessively high energy costs. The section enabling the Secretary of State to impose pass-through requirements on persons to whom energy price support is provided is therefore crucial in protecting end consumers from intermediaries who may otherwise fail to pass on this support.
13. It is undoubtedly the case that renewable energy generators, specifically those on long term Renewables Obligations (RO) contracts, have benefited from the current energy crisis. However, it could be argued that these generators took a risk on an emerging technology, and we need to ensure changes in the funding for renewables does not disincentivise investment. We need energy market reform including on funding renewables, but this needs to be done in a way than provided the necessary incentives to move to a net zero energy system and does so in the most progressive way.

### **Financial implications**

14. There are no direct financial implications arising from this memorandum. However, the secondary legislation will have financial implications for the public sector, including local government. Welsh Ministers have sought assurances from the UK Government that sufficient resources will be made available for bodies in Wales required to implement the measures set out in the Bill.

## **Conclusion**

15. As set out above, the legislative consent of the Senedd Cymru is required for a number of clauses of the Bill. Given the benefit of the provisions to the Welsh people I recommend consent is given.

**Julie James MS**  
**Minister for Climate Change**  
**18 October 2022**