



Department for the

Economy

An Roinn

Geilleagair

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Our ref: CQ DfE 383/26

Your Ref: EC2026:876

Date: 02 06 2026

Dear Peter

Petroleum Exploration and Licensing (Repeal) Bill

Further to your letter dated 22 May 2026, seeking further information to support the Committee's consideration of the Petroleum Exploration and Licensing (Repeal) Bill. Please see response below which has been cleared by Minister Archibald. In the event of a request for disclosure of information contained in this submission under the FOI Act, the request would be considered in the context of the relevant provisions of the legislation, including any relevant exemptions that may be applicable.

The Department has considered the three issues raised by the Committee and sets out its position below, informed by legal advice.

- (i) clarity on whether the Department believes that pending applications constitute possessions for the purposes of Article 1 Protocol 1 of the ECHR;

The Department's position is that the pending applications do not constitute possessions for the purposes of Article 1 Protocol 1 (A1P1) of the ECHR, as they do not give rise to a legitimate expectation of a licence being granted.

- (ii) clarity on whether the Department believes that Clause 1 potentially interferes with Article 1 Protocol 1 rights, and whether any potential interference is capable of justification.

Given the Department's position that the pending applications do not constitute possessions for the purposes of A1P1, it does not consider that Clause 1 interferes with A1P1 rights. Accordingly, no consideration of justification is required.

- (iii) assurance that the regulation-making powers in the Bill will not engage Article 1 Protocol 1 rights.

The Department considers that it is unlikely that the delegated power will be required. In the event that it is used, any regulations are likely to be technical or consequential in nature and therefore unlikely to engage A1P1 rights. Where A1P1 is engaged, the Department would ensure that any provision is justified and compliant with Convention rights, in line with section 23 of the Northern Ireland Act 1998.

Yours sincerely



Departmental Assembly Liaison Officer



Northern Ireland
Assembly

Committee for the Economy

Departmental Assembly Liaison Officer
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Our Ref: **EC2026: 876**

22 May 2026

Dear DALO,

Petroleum Exploration and Licensing (Repeal) Bill Convention Rights Memorandum

At its meeting of 20 May 2026, the Committee considered the Convention Rights Memorandum (enclosed) on the Petroleum Exploration and Licensing (Repeal) Bill.

The Convention Rights Memorandum highlights that the removal of the power to grant licences may merit further consideration in circumstances where persons have applied for, and may argue that they had an expectation of being granted, a licence for onshore exploration.

The Committee therefore agreed to write to the Department in respect of the position for existing licences and the making of regulations, seeking:

- clarity on whether the Department believes that pending applications constitute possessions for the purposes of Article 1 Protocol 1 of the ECHR;
- clarity on whether the Department believes that Clause 1 potentially interferes with Article 1 Protocol 1 rights, and whether any potential interference is capable of justification.
- assurance that the regulation-making powers in the Bill will not engage Article 1 Protocol 1 rights.

A written response on or before 8 June 2026 would be greatly appreciated. The Committee would also greatly appreciate any related background policy information that the Department can provide.

If you require further information or clarification in respect of the above, please do not hesitate to contact me.

Yours sincerely,



Peter McCallion

Peter McCallion

Clerk to the Committee for the Economy

Enc. 1

CONVENTION RIGHTS MEMORANDUM

The Petroleum Exploration and Licensing (Repeal) Bill

INTRODUCTION

1. This Convention Rights Memorandum ('CRM') has been prepared for the Committee for the Economy ('the Committee') to assist with its scrutiny of the Petroleum Exploration and Licensing (Repeal) Bill ('the Bill').
2. The Bill was introduced on 13 April 2026. This memorandum addresses potential issues arising under the European Convention on Human Rights ('the Convention') and Article 2(1) of the Windsor Framework ('Article 2(1)'), in relation to the Bill. It has been prepared by the Legal Services Office.
3. The memorandum does not constitute legal advice, but sets out whether the Bill engages Convention rights. Where there is potential interference with a Convention rights, the memo identifies the clauses which may merit further scrutiny by the Committee.
4. Where a clause of the Bill may occasion interference with one or more Convention rights, that clause may merit further scrutiny by the Committee and discussion with the Department for the Economy ('the Department').
5. Where a clause of the Bill may engage rights which fall within the scope of Article 2(1), the rights issues in those clauses are set out and that clause may also merit further scrutiny and discussion with the Department.
6. The Convention rights given effect in domestic law are set out at Annex A to this memorandum. The text of Article 2(1) and its associated annex is at Annex B to the memorandum.

SUMMARY OF THE BILL

7. The Bill consists of consists of 6 clauses and no schedules.
8. The Explanatory and Financial Memorandum ('EFM') states that the Bill "*will introduce a ban on all forms of onshore petroleum exploration and production in Northern Ireland through amendments to the Petroleum (Production) Act (Northern Ireland) 1964 ('the 1964 Act') and further amending regulations. The Bill will repeal the Department's power to search and bore for petroleum and put an end to the licensing regime in that it removes the power to grant licences so no more licences will be granted. The property in petroleum will remain vested in the Department. This means that the Department will continue to be the lawful*

owner of any petroleum which might exist in strata (underneath the ground) anywhere in Northern Ireland. The Department reserves the right to initiate civil and/or criminal enforcement action against any person who interferes with and/or releases the petroleum by way of boring or conducting activities on land which might result in its release.

SECTION 1: CONVENTION RIGHTS

9. This section sets out the Convention rights¹ which the Legal Services Office considers may be engaged by the Bill. These Convention rights are marked in the table below.

Part I	The Convention Rights and Freedoms	Engaged?
Article 2	Right to life	
Article 3	Prohibition of Torture	
Article 4	Prohibition of slavery and forced labour	
Article 5	Right to liberty and security	
Article 6	Right to a fair trial	
Article 7	No punishment without law	
Article 8	Right to respect for private and family life	
Article 9	Freedom of thought, conscience and religion	
Article 10	Freedom of expression	
Article 11	Freedom of assembly and association	
Article 12	Right to marry	
Article 14	Prohibition of discrimination	
Part II	The First Protocol	
Article 1	Protection of Property	☒
Article 2	Right to Education	
Article 3	Right to free elections	

¹ As set out in Section 1(1) and Schedule 1 of the Human Rights Act 1998, see Annex A for further guidance

CLAUSES FOR FURTHER CONSIDERATION

10. This section of the memorandum only deals with provisions of the Bill which may raise Convention issues. The remaining provisions of the Bill are not considered to engage the Convention rights.

Clause 1 and Clause 2

11. **Clause 1** of the Bill repeals the following provisions in the 1964 Act:
- section 1(3): which gives the Department the exclusive right to search and bore for and get petroleum;¹
 - section 2: which enables to Department to grant licences to search, bore for and get petroleum;
 - section 3: which deals with the application of the Mineral Development Act (Northern Ireland) 1969 ('the 1969 Act');
 - sections 4 to 9: which concern the payment of compensation, in the form of a share of the royalties, relating to relevant petroleum wells;
 - sections 11 and 11A and 11B: which deal with the payment of money to persons entitled to a share under section 13(3) of the Irish Land Act 1903;
 - section 11C: which deals with the disposal of dormant or unclaimed moneys;
 - section 12: which deals with the account of receipts and expenditure under the 1964 Act;
 - section 13: which confers power on the Department to make regulations in support of the 1964 Act;
 - certain interpretation provisions in section 15;
 - section 17: which deals with the application of the Act; and
 - the Schedule: which relates to modifications of sections 23 to 28, 47 and 56(3) of and Schedule 2 to the 1969 Act in their application to the acquisition of, or the grant of permission to use, land or ancillary rights required for the exercise of rights under the Act.
12. Clause 2 is a transitional provision which provides that if an application has been made under section 2 of the 1964 Act, but has not been determined before the Bill comes into force, the application is to be treated as withdrawn by the applicant. The Department may provide a full or partial refund to the applicant of the fee paid, which may also include interest.

¹ Vested in it by section 1(1) of the 1964 Act or by section 6 of and Schedule 1 to the Minerals (Miscellaneous Provisions) Act (Northern Ireland) 1959

Rights engaged: Article 1 of the First Protocol

13. Article 1 of Protocol 1 ('A1FP') provides:

- '1. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*
- 2. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.'*

14. Clause 1 of the Bill removes the Department's power to grant licences for onshore petroleum exploration and production in Northern Ireland and removes the Department's exclusive right to search, bore for and get petroleum. The property in petroleum existing in its natural condition in strata in Northern Ireland remains vested in the Department.

15. Article 34 of the Convention states that the Convention may be relied on only by 'any person, non-governmental organisation or group of individuals claiming to be the victim of a violation'. The removal of the Department's exclusive right does not therefore create any issue of compatibility.

16. However, the removal of the power to grant licences may merit further consideration in circumstances where persons have applied for, and may argue that they had an expectation of being granted, a licence for onshore exploration.

17. The removal of licences can amount to an interference with a person's A1P1 rights. For example, in *Tre Traktörer Aktiebolag v. Sweden*¹ the European Court of Human Rights ('the ECtHR') recognised that a licence to sell alcoholic beverages constituted a possession for the purposes of A1P1. The abrogation of the mechanism to apply for a licence is less certain to engage A1FP.

18. The Department's website currently says: '*At present there are no active Petroleum Licences in Northern Ireland whilst two applications for a Petroleum Licence are still under consideration by the department.*' It is unclear whether such pending licence applications would constitute a 'possession' for the purposes of A1P1. The Committee may wish to consider the ECtHR's ruling in *Kopecky v Slovakia*²:

"Possessions" can be either "existing possessions" or assets, including claims, in respect of which the applicant can argue that he or she has at least a "legitimate expectation" of obtaining effective enjoyment of a property right. By way of contrast, the hope of recognition of a property right which it has

¹ Application No 10873/84

² Application No 44912/98

been impossible to exercise effectively cannot be considered a “possession” within the meaning of Article 1 of Protocol No. 1, nor can a conditional claim which lapses as a result of the non-fulfilment of the condition’.

19. The Committee may wish to examine with the Department whether pending applications would give rise to such a legitimate expectation, or whether an application for a licence may more appropriately be characterised as the mere *‘hope of recognition of a property right’* to extract onshore petroleum.
20. The Committee will also note that the ECtHR has held that future income constitutes a possession only if the income has been earned, or where an enforceable claim to it exists¹.
21. If the Committee were persuaded that pending applications constitute possessions, and therefore clause 1 potentially interferes with A1P1 rights, the Committee will note that this interference is capable of justification if it:
 - is in accordance with the law;
 - pursues a legitimate public or general interest in a democratic society in relation to (for example) environmental protection and climate commitments, where the state enjoys a wide margin of appreciation; and
 - proportionate (i.e. whether a less intrusive measure could have been used without unacceptably compromising the achievement of the objective, bearing in mind that this does not require the least intrusive measure to be adopted).
22. With regards to safeguards which seek to ensure the proportionality of the Bill, the Committee will note that clause 2 of the Bill includes a transitional provision to enable the Department to refund any fee (together with interest) for pending applications for licences that have not been determined when the Act comes into force.

Clause 4: regulation-making powers

23. The Bill confers powers on the Department to make regulations with such consequential, incidental, supplementary, transitional, transitory, or saving provisions that it considers necessary or expedient for the purposes of, in connection with or for giving full effect to this Act (or any provision of it).

Rights engaged: A1FP

24. The Bill enables the Department to make regulations that it considers necessary or expedient for the purposes of, in connection with or for giving full effect to the

¹ Ian Edgar (Liverpool) Ltd v. the United Kingdom (Application No 37683/97)

Act. It is arguable that these regulations could be drafted in a way which may engages A1FP.

25. However, the Committee will note that, pursuant to section 24 of the 1998 Act, Northern Ireland Ministers and departments have no power to make, confirm or approve any subordinate legislation, or to do any act, so far as the legislation or act is incompatible with any Convention rights. The Committee may reasonably expect that these regulation-making powers can be exercised in a way which is compatible with Convention rights.
26. However, the Committee may wish to seek further information from the Department on how these regulation-powers are intended to be exercised.

SECTION 2: ARTICLE 2(1) OF THE WINDSOR FRAMEWORK

27. It is not considered that any clause in the Bill falls within the scope of Article 2(1) of the Windsor Framework.

SECTION 3: SUMMARY

- The Committee will wish to consider whether pending applications constitute possessions for the purposes of A1FP.
- The Committee will wish to consider whether clause 1 potentially interferes with A1P1 rights, and whether any potential interference is capable of justification.
- The Committee may wish to seek further information on the intended exercise of the regulation-making powers in the Bill.
- Article 2(1) is not engaged by the Bill.

ANNEX A: THE CONVENTION RIGHTS AND FREEDOMS

Article 2: Right to life

- (1) Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
- (2) Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
 - (a) in defence of any person from unlawful violence;
 - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
 - (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 3: Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 4: Prohibition of slavery and forced labour

- (1) No one shall be held in slavery or servitude.
- (2) No one shall be required to perform forced or compulsory labour.
- (3) For the purpose of this Article the term "forced or compulsory labour" shall not include:
 - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
 - (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
 - (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
 - (d) any work or service which forms part of normal civic obligations.

Article 5: Right to liberty and security

- (1) Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
 - (a) the lawful detention of a person after conviction by a competent court;

- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
 - (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
 - (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
 - (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
 - (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
- (2) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
- (3) Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
- (4) Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
- (5) Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

Article 6: Right to a fair trial

- (1) In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
- (2) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

- (3) Everyone charged with a criminal offence has the following minimum rights:
- (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - (b) to have adequate time and facilities for the preparation of his defence;
 - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
 - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 7: No punishment without law

- (1) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
- (2) This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

Article 8: Right to respect for private and family life

- (1) Everyone has the right to respect for his private and family life, his home and his correspondence.
- (2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9: Freedom of thought, conscience and religion

- (1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
- (2) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society

in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10: Freedom of expression

- (1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
- (2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11: Freedom of assembly and association

- (1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
- (2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 12: Right to marry

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

Article 14: Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 16: Restrictions on political activity of aliens

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

Article 17: Prohibition of abuse of rights

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

Article 18: Limitation on use of restrictions on rights

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

Article 1 of the First Protocol: Protection of property

- (1) Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
- (2) The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 2 of the First Protocol: Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Article 3 of the First Protocol: Right to free elections

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

ANNEX B: ARTICLE 2 OF THE WINDSOR FRAMEWORK

Article 2: Rights of individuals

- (1) The United Kingdom shall ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal from the Union, including in the area of protection against discrimination, as enshrined in the provisions of Union law listed in Annex 1 to this Protocol, and shall implement this paragraph through dedicated mechanisms.
- (2) The United Kingdom shall continue to facilitate the related work of the institutions and bodies set up pursuant to the 1998 Agreement, including the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland and the Joint Committee of representatives of the Human Rights Commissions of Northern Ireland and Ireland, in upholding human rights and equality standards.

Annex 1: provisions of Union law referred to in Article 2(1)

- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services¹
- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation²
- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin³
- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation⁴
- Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC⁵
- Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security⁶

¹OJ L 373, 21.12.2004, p. 37.

²OJ L 204, 26.7.2006, p. 23.

³OJ L 180, 19.7.2000, p. 22.

⁴OJ L 303, 2.12.2000, p. 16.

⁵OJ L 180, 15.7.2010, p. 1

⁶OJ L 6, 10.1.1979, p. 24.