CONVENTION RIGHTS MEMORANDUM

The Renewable Electricity Generation Bill

INTRODUCTION

1. This memorandum has been prepared for the Committee for the Economy ('the Committee') to assist with its scrutiny of the Renewable Electricity Generation Bill ('the Bill').

2. The Bill was introduced on 30 June 2026. This memorandum addresses 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 this Bill engages Convention rights. Where a clause of the Bill may occasion interference with one or more Convention rights, that clause may merit discussion with the Department for the Economy ('the Department').

4. 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 may also merit further scrutiny and discussion with the Department to identify any potential incompatibility with Article 2(1).

5. The Convention rights given effect in domestic law are set out at Annex A to this memorandum. The text of Article 2(1) of the Windsor Framework and its associated annex is at Annex B to the memorandum.

SUMMARY OF THE BILL

6. The Bill consists of 22 clauses and two schedules. The long title describes it as a *'Bill to confer powers to provide financial assistance for the purposes of encouraging low carbon electricity generation*.'

7. The Explanatory and Financial Memorandum notes that the Bill provides, *'the framework for a Renewable Electricity Price Guarantee ("REPG") scheme in Northern Ireland. Through the offer of contracts for difference ("CfDs") to electricity generators guaranteeing price stability for a defined period, the framework is intended to encourage the generation of renewable electricity and help insulate consumers from volatile electricity prices.'*

SECTION 1: CONVENTION RIGHTS

8. This section sets out the Convention rights[1] 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	x
Article 7	No punishment without law	
Article 8	Right to respect for private and family life	x
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	x
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

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

10. Where the clauses refer to regulation-making powers of the Department, the Committee will note that the Department is under a discrete obligation under section 24 of the Northern Ireland Act 1998 to carry out its functions in a manner compatible with the Convention rights.

Clause 2

11. Clause 2 gives the Department power to make regulations governing the terms and conditions of CfDs. In particular, clause 2(2) allows regulations to define key elements of the CfD scheme, including the meaning of the *'market reference price'* and *'strike price'*, how the relevant payment periods are determined, and how payments between the generator and counterparty are calculated.

12. Clauses 2(2)(d) and (e) allow regulations to provide for exceptions to the normal CfD payment arrangements, including circumstances where a generator is not entitled to receive payments from the counterparty or is not required to make payments to the counterparty.

Right engaged: Article 1 of the First Protocol

13. As a CfD gives rise to contractual rights with potential economic value, any entitlement to receive payments under a CfD may constitute a possession for the purposes of Article 1 of the First Protocol ('A1P1'). The exercise of the power in sub clauses (2)(d)–(e) could therefore engage A1P1 insofar as it may limit or qualify a generator or a counterparty's entitlement to payments that would otherwise arise under the contract.

14. However, A1P1 is a qualified right and States are able to enforce laws that can deprive an individual of his or her possessions or control the use of property in accordance with the general interest. The Committee will wish to satisfy itself that any deprivation or controls of the payments meet a legitimate aim, are proportionate and strike a fair balance between the general interests of generators and counterparties.

Clause 5

15. Clause 5 makes provision for the allocation rounds which may be run to allocate CfDs. Allocation rounds may be run from time to time, and they may be limited by criteria chosen by the Department (such as type of generating station or total generating capacity). Sub clause (3) requires the Department to publish a notice

for each allocation round, issue and publish standard terms for the CfDs to be allocated and publish an allocation scheme setting out the rules to be followed for the specific allocation round. Sub clause (4) provides the Department with the power to make regulations regarding the procedure for allocation rounds. Sub clause (6) provides that when the Department issues standard terms under sub clause (3) it may designate particular standard terms that may be modified.

Right engaged: A1P1

16. Clause 5 may engage A1P1 to the extent that a CfD gives rise to contractual rights with economic value that may constitute possessions for the purposes of A1P1. The Committee may wish to satisfy itself that any limitations or conditions set by the Department under the allocation framework would pursue a legitimate aim in the administration of the renewable electricity support scheme and would be proportionate.

17. The Committee will note the limitations on the regulation-making power of the Department arising from the Convention and described at paragraph 10 above, but may wish to explore with the Department how these regulation-making powers might be exercised.

Clause 10

18. Clause 10 provides that the Department must make regulations that require electricity suppliers to pay a supplier levy to the counterparty for specified purposes. The purposes must include the purpose of enabling the counterparty to make payments under CfDs and may include funding the counterparty's other costs in connection with its functions under the Bill, building a reserve fund, or building a contingency fund for use in the event of the insolvency or default of an electricity supplier.

19. The regulations may provide for an electricity supplier's levy payments to be calculated by reference to the amount of electricity supplied by that supplier, and to specify that some supplies of electricity may be disregarded for this purpose.

20. The regulations may also provide that suppliers must, in calculating the amount to be charged to a customer for an exempt supply of electricity, disregard any amounts payable by the supplier to the counterparty under the supplier levy.

Right engaged: A1P1

21. Depending on the way in which the regulations are structured, these requirements may constitute an interference with the electricity suppliers' right to peaceful enjoyment of their possessions under A1P1 because they involve the compulsory transfer or restriction of financial assets. The Committee may wish to satisfy itself that the levy pursues a legitimate aim in the public interest such as

supporting the development of low-carbon electricity generation and that any interference is proportionate.

22. The Committee will note that the European Court of Human Rights has consistently afforded States a wide margin of appreciation in the field of economic and fiscal policy provided a fair balance is struck between the general interest and the protection of individual property rights[1] and that the A1P1 expressly recognises the right of the State to enforce laws necessary to secure the payment of taxes or other contributions.

Clause 12

23. Clause 12 empowers the Department to make regulations requiring the counterparty to make payments to electricity suppliers and to impose requirements one electricity suppliers to ensure that customers receive specified benefits from those payments by a specified time.

Right engaged: A1P1

24. To the extent that an electricity supplier receives a payment from a counterparty and is subsequently required to pass on a specified benefit to its customers, the clause may engage A1P1 as a interference with the right to peaceful enjoyment of that payment. The Committee will wish to satisfy itself that any deprivation or controls of these payments meet a legitimate aim and are proportionate and strike a fair balance between the general interests of the electricity suppliers and its customers.

25. The Committee will note the limitations on the regulation-making power of the Department arising from the Convention and described at paragraph 10 above but may wish to explore with the Department how these regulation-making powers might be exercised.

Clause 13

26. Clause 13 provides the Department with the power to make regulations requiring electricity generators that are parties to a CfD to make arrangements for the payment of specified community benefit sums to specified persons. Sub clause (2) makes further provision as to what may be included in the regulations including frequency of such payments, provision for the payments to be calculated by reference to the amount of electricity generated at the relevant generating station. The regulations may require the generator to advertise the community benefit scheme to potential applicants; and compliance with the scheme may be monitored. The regulations may also make provision about

[1] Gasus Dosier-und Fördertechnik GmbH v. the Netherlands, Application No 15375/89

deciding applications, the giving of reasons for decisions and the review of, or appeal against, those decisions; and to provider for any sum to be recoverable as a civil debt.

Rights engaged: Article 6, A1P1

27. The civil limb of Article 6(1) may be engaged as clause 13(2)(g) expressly permits regulations to make provision about decision-making, the giving of reasons, and the review of or appeal against decisions as to eligibility for payments. Clause 13(2)(h) permits provision concerning monitoring, enforcement and the recovery of sums payable as a civil debt. These provisions indicate that disputes may arise concerning legal rights and liabilities and therefore the Committee will wish to satisfy itself that procedural safeguards to a fair determination under Article 6 are met by the Department.

28. Clause 13 may engage A1P1 because it enables the Department to make regulations requiring a generator that has entered into a CfD in respect of a generating station to make community benefit payments to specified persons. Such a requirement would involve the transfer of financial resources and therefore may constitute an interference with the generator's possessions.

29. The Committee will wish to satisfy itself that any deprivation or controls of possessions through these payments meet a legitimate aim and are proportionate and strike a fair balance between the general interests of the electricity suppliers and its customers.

30. The Committee will note the limitations on the regulation-making power of the Department arising from the Convention and described at paragraph 10 above.

Clause 14

31. Clause 14 provides the Department with the power to make regulations regarding how the counterparty may use held sums, including specifying whether certain categories of sums must or must not be used for particular purposes, and requiring that certain sums be paid into the Consolidated Fund. Sub-clause (3) requires the Department to establish, through regulations, any arrangements it considers necessary to ensure the counterparty can meet its CfD obligations. It also requires that, where the sums available for that or any other specified purpose are insufficient to fully meet that purpose, provision is made for how those sums are to be apportioned.

Right engaged: A1P1

32. Clause 14 may engage A1P1 as it empowers the Department to make regulations governing the use of sums held by the counterparty and, in particular, requires the Department to make provision to ensure that the counterparty can

meet its liabilities under CfDs. Clause 14(2) permits regulations to direct how specified sums may be used and to require sums to be paid into the Consolidated Fund, while clause 14(3) requires provision to be made for the apportionment of available funds where they are insufficient to meet liabilities.

33. The Committee will wish to satisfy itself that any deprivation or controls of possessions through these payments meet a legitimate aim and are proportionate and strike a fair balance between the general interests of the electricity suppliers and its customers.

Clause 15

34. Clause 15 confers power on the Department to make regulations governing the sharing and publication of information and the provision of advice for the purposes of the CfD scheme. It enables specified bodies to be required to provide information or advice, includes provision for the protection of confidential or sensitive information, and provides for the enforcement of information-sharing obligations.

Right engaged: Article 8

35. Clause 15 may engage Article 8 to the extent that regulations made under the clause could require the disclosure, sharing or publication of information relating to identifiable individuals or businesses participating in the CfD scheme. The collection and disclosure of information may engage the right to respect for private life where personal or commercially sensitive information is involved.

36. Any interference with Article 8 will only be lawful if it is in accordance with the law, pursues a legitimate aim and is considered necessary in a democratic society. The Committee will wish to be satisfied that any such interference is proportionate to the legitimate aim of administering a scheme that encourages low-carbon electricity generation.

Clause 16

37. Clause 16 provides monitoring functions (defined by sub-clause (1)) and the review functions (defined by sub-clause (2)). Sub clause 4(a) allows the Department to make regulations to require any person who has functions under the allocation scheme to give the monitor access to premises and information as reasonable. Sub-clause (6) provides that the Department must make arrangements for a person to exercise the monitoring and review functions, or exercise the functions itself.

38. Under sub clause 9, where a material failure in the allocation process is identified, the Department may terminate the allocation round, give directions to remedy the failure or direct that parts of the process be rerun. Clause 16(12) further enables the Department to confer dispute-resolution functions on the Utility Regulator in relation to disputes arising under the Act.

Rights engaged: Article 6, A1P1

39. Clause 16 will most like engage Article 6(1) which guarantees the right to a fair hearing in the determination of civil rights and obligations. Decisions relating to the allocation of CfDs may have significant economic consequences for generators seeking support under the scheme and may therefore involve the determination of civil rights and obligations. In this context, the Committee may wish to satisfy itself that the procedural safeguards, including independent monitoring, review mechanisms, reporting requirements and the possibility of dispute resolution by the Utility Regulator are adequate.

40. Where a monitor is given access to a premises and information under sub clause 4(a), this may interfere with the right to peaceful enjoyment of possessions under A1P1 and the Committee may wish to satisfy itself that this interference can be justified as proportionate and striking a fair balance between the general interest of the community and the private interests of the property owner.

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

41. 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

42. No clauses or provisions of the Schedules to the Bill call for particular scrutiny by the Committee.

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Legal Services Office
September 2026

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 services[1]
- 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 occupation[2]
- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin[3]
- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation[4]
- 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/EEC[5]
- 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 security[6]

[1] OJ L 373, 21.12.2004, p. 37.
[2] OJ L 204, 26.7.2006, p. 23.
[3] OJ L 180, 19.7.2000, p. 22.
[4] OJ L 303, 2.12.2000, p. 16.
[5] OJ L 180, 15.7.2010, p. 1.
[6] OJ L 6, 10.1.1979, p. 24.