

UTILITY REGULATOR (SUPPORT FOR DECARBONISATION PREPARATION) BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by the Department for the Economy (the ‘Department’) in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill.

BACKGROUND AND POLICY OBJECTIVES

3. On 16 December 2021, the Department published the Executive’s energy strategy – ‘The Path to Net Zero Energy’¹. That document sets out a long-term vision to achieve net zero carbon and affordable energy.
4. As well as having a strategy to deliver net zero in the arena of energy, the Executive also set overarching and statutory greenhouse gas (‘GHG’) emissions reduction targets. The Climate Change Act (Northern Ireland) 2022 (‘CCA NI’) came into force in June 2022 and has a target of at least 100% reduction in GHG emissions by 2050.
5. The Utility Regulator (‘UR’), established by Article 3 of the Energy (Northern Ireland) Order 2003, is the economic regulator for electricity and gas in Northern Ireland. The UR needs to be able to support the Department on the development of low carbon policies essential to the energy sector. Currently it is restricted in its ability to fulfil its strategic role, as regulatory advisor to government on the energy sector, as the legislative framework underpinning its operation has not been updated to reflect the importance of net zero.
6. The Bill is designed to enable the UR to support the Department in developing policies essential to the decarbonisation of the electricity and gas sectors, and support delivery of CCA NI objectives.

¹ [The Path to Net Zero Energy. Safe. Affordable. Clean. \(economy-ni.gov.uk\)](https://www.economy-ni.gov.uk)

CONSULTATION

7. The Department carried out a public consultation on the Bill from 19 June 2024 to 16 August 2024. Notification of this consultation was published on the Department's website and social media platforms.
8. 50 responses were received from individuals, industry and government. A consultation summary document was produced, published on the Department's website and presented to the Economy Committee.
9. Responses received were largely supportive of the Bill and recognised the need for the Bill to support the drive to net zero.

OPTIONS CONSIDERED

10. Option 1 - Do nothing.
11. Option 2 - Progress primary legislation to provide powers for the UR to support the Department for the Economy in the development of proposals, policies, strategies or plans associated with the energy sector to deliver obligations under CCA (NI) 2022.
12. Option 1 is ruled out on the basis that it is not consistent with the Executive Energy Strategy Policy and requirements under CCA (NI) 2022.

OVERVIEW

13. The Bill is short and technical in nature. It consists of two clauses.
14. In summary, it provides a power for the UR to provide advice, information or assistance to the Department, in relation to the energy sector, to assist requirements under CCA NI, and a qualified duty that it must, so far as reasonably practicable, comply with any reasonable request.

COMMENTARY ON CLAUSES

Clause 1(1): Provides a power that the UR may provide advice, information or assistance to support the Department's development of proposals, policies, strategies or plans needed in relation to the energy sector to meet requirements under CCA NI.

Clause 1(2): Provides a qualified duty that the UR must, so far as reasonably practicable, comply with any reasonable request. This is to allow for times when the UR may be unable to meet a request from the Department, for example when it considers that it has insufficient resource to practically meet a request.

Clause 1(3): Defines several of the expressions used in clauses 1(1) and 1(2). In this context, it is worth noting that the legal name of the Utility Regulator is the Northern Ireland Authority for Utility Regulation (see Article 3 of the Energy (Northern Ireland) Order 2003).

Clause 2: Deals with commencement of the Act ensuing from the Bill and provides its short title.

FINANCIAL EFFECTS OF THE BILL

15. Functions relating to electricity and gas licence conditions are contained in Article 11 of the Electricity (Northern Ireland) Order 1992 and Article 10 of the Gas (Northern Ireland) Order 1996. Electricity and gas licences include conditions permitting the UR to recover, via fees charged to licence holders, the costs of performing its electricity and gas functions.
16. It is the intention of the UR that electricity and gas licence holder fees will be used to fund work associated with the Bill that falls within the UR functions under electricity and gas legislation.
17. The UR estimates that 4 Full Time Equivalent (FTE) staff will be funded from licence fees in the first year following implementation. It is assumed that these will lead to costs of circa £328K.
18. The UR is an independent non-ministerial government Department governed by a board of directors and accountable to the Assembly. Should the Department require advice, information or assistance to support policy development outside electricity and gas functions that cannot be funded by licence fees, consideration will be given to alternative funding mechanisms. Article 3(3) of the Energy (Northern Ireland) Order 2003 provides that the expenses of the UR are to be defrayed out of money appropriated for that purpose by Act of the Assembly – i.e. through the annual Budget Act process.

HUMAN RIGHTS ISSUES

19. The Bill does not have any impact on human rights issues. The Bill is purely technical in nature.

EQUALITY IMPACT ASSESSMENT

20. No impacts identified. The Bill is technical in nature to facilitate discussions between the Department and UR on low carbon energy policies which will be subject to individual EQIAs.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

21. Funding will be provided from electricity and gas licence holders for those aspects of work under the bill that fall within its electricity and gas functions.
22. A Regulatory Impact Assessment has been published alongside the Bill. It identifies costs in the first year following the Bill to be £328,070.

DATA PROTECTION IMPACT ASSESSMENT

23. A data protection impact assessment was undertaken in relation to the public consultation on the draft Bill. No personal data was requested during the public consultation exercise and no data protection concerns were identified.

RURAL NEEDS IMPACT ASSESSMENT

24. The Bill is required to facilitate engagement between the Department and UR in development of policies which will be subject to rural needs assessments.

LEGISLATIVE COMPETENCE

25. At Introduction the Minister for the Economy made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Utility Regulator (Support for Decarbonisation Preparation) Bill (Northern Ireland) 2026 would be within the legislative competence of the Northern Ireland Assembly.”



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