INDICATIVE MEMORANDUM

ENERGY INDEPENDENCE BILL

Background

1. This indicative memorandum has been laid before the Assembly by the Minister for the Economy under Standing Order 42A(6)(c).

2. Standing Order 42A - Legislative Consent Motions - details the procedure for seeking the agreement of the Assembly to the United Kingdom Parliament considering provisions of a Bill which deal with a devolution matter. Paragraph (2) of Standing Order 42A prescribes that a legislative consent memorandum shall be laid in respect of any devolution matter for which a legislative consent motion is proposed.

3. Under Standing Order 42A (6)(c) I am laying this indicative memorandum explaining why a legislative consent motion is not **currently** sought; however I am advising members that a legislative consent motion maybe needed, subject to Executive agreement, in early 2027.

Summary of the Bill

4. The Energy Independence Bill was introduced at Westminster on 04 November 2026 and can be found Energy Independence Bill - Parliamentary Bills - UK Parliament.

5. The Department for Energy Security and Net Zero (DESNZ), states that the legislative objectives of the Bill are to:

    a. Deliver a fairer deal for consumers;
    b. Upgrade homes and empower communities; and
    c. Deliver homegrown clean energy.

6. The subject matter of the Bill is energy and related matters, which is a devolved matter and, as such, within the legislative competence of the Assembly, in accordance with section 4(1) of the Northern Ireland Act 1998.

7. The Bill contains a number of measures that would extend here, subject to the consent of the Assembly relating to energy policy. Five measures at introduction fall within the responsibility of the Minister for the Economy, and two measures are the responsibility of the Minister for Agriculture, Environment and Rural Affairs.

Provisions which deal with a Devolution Matter

8. The measures included in the Bill at introduction which may extend here, subject to legislative consent debate, and that are subject to ongoing legal analysis are:

Warm Homes Agency: Clauses 1- 2, 4-7, 10-13:

9. The Bill provides for energy efficiency and decarbonisation schemes to be administered by the Warms Homes Agency (WHA), once established, or another body, which is a dedicated public body. The WHA will be an Executive Agency and will not trigger the legislative consent process. Reorganisation of schemes includes those previously delivered by Office of Gas and Electricity Markets Authority (GEMA), DESNZ, and Salix Finance. Administration of schemes that extend to the North of Ireland trigger the LCM process.

10. Clause 1: Administration etc. of the renewables obligation (RO) and certificate purchase obligation (CPO) – amendments to Electricity Act 1989 relating to administration and enforcement of RO and CPO insofar as they apply to Great Britain, but also includes application to the North, pursuant to section 104 Energy Act 2004. As this affects how certificate purchase obligations could operate here it triggers LCM process.

11. Clause 2: Administration of the renewables obligation - Section 121 of the Energy Act 2004 allows GEMA and the Northern Ireland Authority for Utility Regulation (NIAUR) to enter into and give effect to arrangements for GEMA to administer the RO. Clause 2 amends that section such that the Northern Ireland Authority will be able to enter into and give effect to such arrangements with the designated administrator of the RO.

12. Clauses 4 – 6: Guarantees of origin certificates. These clauses confer regulation-making powers to establish a scheme for the issuing of certificates stating that electricity has been generated from renewable or other specified sources. The power to make regulations establishing the scheme is conferred on the Department for the Economy.
    a) Renewable Energy Guarantee of Origin - The LCM process is engaged as the new REGO enabling powers extend here and relate to a transferred matter, namely the generation and supply of electricity.
    b) Certificate Purchase Obligation - The LCM process is engaged as s32N-s32Z2 of the Electricity Act 1989 extends here and concern the supply of electricity which is a transferred matter.

13. Clause 7: relates to consequential amendments to section 121A of Energy Act 2004, providing GEMA power to act on behalf of the NIAUR in issuing REGOs.

14. Clauses 10 –12: Transfer schemes. Enables the transfer of property, rights, liabilities, staff, and non-physical assets (including data, governance instruments, records, and commercial contracts) from the current administrator of various legislative and non-legislative schemes, into the Secretary of State (as the new WHA) and any other administrators to which schemes are transferred. Provision will enable transfer of assets and property in the North of Ireland. The transfer scheme powers may also be used to effect transfers in relation to the Certificate Purchase Order obligation scheme which is a transferred matter.

15. Clause 13: Disclosure of information. This provision will enable the WHA, the GEMA, NIAUR and any other body appointed to administer a relevant scheme to share necessary information with each other for a wide range of purposes, primarily to ensure the new WHA, any other scheme administrator and Ofgem can carry out their respective functions.

<u>Clause 160: The Coal Authority Renamed the Mining Remediation Authority</u>

16. The Coal Authority is being renamed to the Mining Remediation Authority. It does not impact transferred matters concerning coal or coal processes. The change of name is likely to impact here as consequential amendments.

<u>Clauses 163, 165 - 170: Hydrogen Power: Revenue Support Contracts</u>

17. The Hydrogen Power: Revenue Support Contracts are being designed to provide financial support to hydrogen-fired power stations and decisions on the scope and scale of support are expected to be made through Hydrogen to Power Business Model allocation rounds. The provisions confer powers on the Secretary of State to designate and direct a hydrogen power counterparty to enter into contracts with a hydrogen power generator, establish an allocation framework and appoint an allocation body and make regulations imposing obligations on electricity suppliers to fund that scheme. As these provisions relate to electricity generation, electricity supply and energy policy, they engage devolved competence. Amendments are being made to Chapter 1 of Part 2 on Energy Act 2023, which extends to the North.

18. Clause 164: Funding in relation to hydrogen power revenue support contracts. Provides that review support regulations may make provision for electricity

suppliers to make payments to a hydrogen counterparty under a hydrogen to power review support contract.

Clause 171: Employment Rights for Offshore Workers

19. Clause 171. The provision amends section 287 of Trade Union and Labour Relations (Consolidation) Act 1992 and section 201 the Employment Rights Act 1996 so that offshore employment protections may be extended to workers engaged in renewable and low-carbon energy activities. Both provisions extend to the North and as employment law is a transferred matter, the provision engages devolved competence.

Clause 177: Import and export of radioactive waste and spent fuel

20. Clause 177. The provision confers powers to make regulations governing the import, export and transit of radioactive waste and spent fuel, including powers relating to authorisations, enforcement and civil sanctions. While radioactive waste contains reserved elements, the regulations would confer functions on the Department of Agriculture, Environment and Rural Affairs and therefore engage devolved competence.

Clause 178: Core Fuel Resilience - Gas

21. The clauses will amend Part 12 of the Energy Act 2023 which extends to the North. The provisions confer powers on the Secretary of State to issue directions, make regulations, require information and provide financial assistance in relation to LPG facilities, gas supply facilities (GSF) and hydrocarbon processing facilities (HPF). The provisions also create enforcement powers and offences for non-compliance. As these provisions relate to energy regulation and security of supply, they engage devolved competence. There are currently no HPFs or GSFs in the North of Ireland. Therefore, while all measures extend here, those concerning HPFs or GSFs will have no practical application (at present).

Clause 179: Validation of fees charged in relation to certification of fuels and fireplaces

22. The proposed measure will seek to retrospectively validate unlawful charges that have been issued historically on behalf of England, Wales, Scotland and Northern Ireland. Insofar as it applies here, the clause is transferred, (as it does not relate to any reservation) so engages the LCM process.

Proposed Government Amendments

23. The Department for the Economy is in discussions with DESNZ on further measures proposed as government amendments during Westminster passage.

24. As these measures are not finalised it is not possible to make a practical assessment of implications on devolved competence. However, they offer opportunities to align with net-zero strategic commitments here, and opportunities for businesses and consumers.

Reasons for utilising the Bill rather than an Act of the Assembly

25. The Energy Independence Bill offers opportunities for alignment across Great Britain and the North to secure strategic objectives contributing to the Executive's Energy Strategy, The Path to Net Zero Energy Strategy, and the Climate Change Act (Northern Ireland) 2022.

26. It can support energy resilience, net-zero energy infrastructure and provide access to GB funding streams. It can also provide further, timely support to consumers.

Engagement with Assembly Committees

27. I have written to the Committee for the Economy notifying them of the scope of the Bill, copying in the Committee for Environment, Agriculture and Rural Affairs.

Associated Documents

28. Relevant documents associated with policies and measures in the Bill are available at https://bills.parliament.uk/bills/4319/publications.

29. The Department of Energy Security and Net Zero considers that the Energy Independence Bill is compatible with the European Convention on Human Rights (ECHR).

30. Equality screening exercises and regulatory impact assessments will be undertaken on measures in the Bill that extend here and published on Departmental websites. The legislation is not expected to have any negative impacts on equality groupings.

Reasons for not seeking the consent of the Assembly at this time

31. Discussions have taken place over a number of months on those measures that might extend to the North, subject to the legislative consent of the Assembly. There remain some policy, operational and legislative details that need to be finalised.

32. In addition, the Department is aware of further measures that might be included as government amendments. There is a need to ensure these are fully workable within the legislative framework governing energy here and to fully understand the policy and governance implications associated.

Conclusion

33. It is my view that those provisions of the Energy Independence Bill dealing with devolution matters offer opportunities for the North.

34. Engagement continues between officials to ensure clauses operate effectively within the devolution settlement and DESNZ has indicated that additional measures are to be introduced during Westminster passage.

35. A legislative consent debate at this time would therefore not provide the Assembly an opportunity for full scrutiny of the Bill. It is therefore my intention to bring forward a Legislative Consent Motion and further Memorandum, subject to Executive agreement, in early 2027.

CAOIMHE ARCHIBALD MLA

Minister for the Economy

16 November 2026