



# **I&E HORIZON SCANNER**

**JANUARY / FEBRUARY 2023**

# WELCOME

Welcome to the latest edition of our quarterly horizon scanner. The purpose of this document is to keep you abreast of key legal and regulatory developments.

If you have any questions or require any more information then please don't hesitate to get in touch with us. If you would like to receive this and other similar updates direct to your inbox, please [click the link here](#).

# NET ZERO & INDUSTRY NEWS

On 7 February 2023 the UK government confirmed the creation of four new departments, including a [Department for Energy Security and Net Zero](#) (DESNZ). DESNZ will be tasked with securing the country's long-term energy supply, bringing down bills and halving inflation. It will also be expected to secure more energy from domestic nuclear and renewable sources, seizing the opportunities from the net-zero transition. A dedicated Department for Science, Innovation and Technology will aim to make the UK "the most innovative economy in the world", to deliver improved public services, create new and better-paid jobs, and to grow the economy. A combined Department for Business and Trade will look to support growth by promoting investment and championing free trade, and a re-focused Department for Culture, Media and Sport will build on the UK's position as a global leader in the creative arts. The establishment of these departments marks the end of the Department for Business, Energy and Industrial Strategy (BEIS).

On 13 January 2023, BEIS published Chris Skidmore's [review into the UK government's net zero policy](#), entitled 'Mission Zero'. The

recommendations include a new office for net zero delivery (see above), reforms to the planning system to encourage net zero, and corporate reporting developments to address sustainability and tackle greenwashing. A key focus of the report is on the decarbonisation of the energy sector. Specific recommendations include: a cross-sectoral infrastructure strategy to adapt and build gas, CO2 and electricity networks; a reform of markets to rebalance gas and electricity prices; the creation of taskforces to drive onshore renewable power development. This involves working with local government on planning regimes; and continued support for hydrogen heating trials, including the creation of a 10 year delivery plan to scale up hydrogen production.

BEIS has [outlined proposals](#) for Great Britain's Capacity Market with the aims of enhancing electricity security and a secure transition to a decarbonised power system by 2035. The Capacity Market 2023 consultation can be accessed [here](#) and is open until 3 March 2023.

In order to reach net zero by 2050, the UK has committed to the full decarbonisation of the electricity

sector by 2035. The [Review of Electricity Market Arrangements'](#) core objective is to reform electricity market arrangements to ensure that they facilitate the 2035 goal. BEIS has identified five key challenges which need to be addressed to achieve the 2035 goal: 1) increasing investment in low carbon generation capacity; 2) increasing system flexibility to support the balancing of supply/demand and the stability of the system as variable renewable generation increases; 3) providing efficient locational signals to minimise system costs; 4) maintaining system operability; and 5) managing price volatility.

The Scottish Government has published its [Draft Energy and Just Transition Plan](#), which is open for consultation until 4 April 2023.

The Welsh Government is inviting responses to its consultation on Wales' [renewable energy targets](#) by 18 April 2023. Also in Wales, the Welsh Government and the Development Bank of Wales have unveiled a [£10m Green Business Loan Scheme](#) to help businesses reduce their carbon footprint.

Ahead of the Budget on 15 March, the Confederation of British Industry (CBI) has [asked](#) the government: to



take action to tackle labour and skills shortages; to unlock business investment through the tax system; and to unleash green markets and energy resilience, by supporting firms to be more energy efficient, and improving energy security and innovation.

The Chief Executives of RenewableUK, Energy UK, the Nuclear Industry Association, Scottish Renewables and Solar Energy UK have written a joint [letter](#) to the Chancellor expressing concern that there is no clear government plan to deliver green economic growth and continue attracting clean energy investment into the UK. The letter calls for key steps in the upcoming Spring Budget to address this, by including an "investment allowance in the Electricity Generators Levy to level the playing field with fossil fuels".

In its pre-budget submission, the Energy Networks Association (ENA) has proposed: regulatory reform to unlock strategic investment in energy network infrastructure; acceleration of investment in hydrogen network infrastructure; reform to the land rights and consenting process for energy network infrastructure; growth of new smart energy markets; provision of innovation funding for energy network infrastructure; and development of a policy strategy for seasonal energy storage. Click [here](#) for more information.

On 9 January 2023, HM Treasury announced a new [Energy Bills Discount Scheme](#) (EBDS) for non-household energy customers, which will apply from 1 April 2023 to 31 March 2024. The EBDS will replace the Energy Bill Relief Scheme (EBRS), which is providing a discount on wholesale gas and

electricity prices for all non-domestic energy customers between 1 October 2022 and 31 March 2023.

Under its new [Eco+ scheme](#), the UK government will spend an extra £1bn to insulate the least energy-efficient homes in the UK.

Over £32 million in government funding has been awarded to projects developing innovative energy storage technologies, through the second phase of the [Longer Duration Energy Storage \(LODES\) competition](#).

BEIS has updated its guidance on heat networks pass-through requirements. Ben Sheppard [explains](#).

BEIS has published an [EV Smart Charging Action Plan](#) detailing how government and Ofgem are seeking to deliver energy flexibility from EV charging.

The government has approved the UK's first new deep coal mine for 30 years. The Cumbrian plant will provide fuel for steelmaking. The decision has been met with disappointment by Friends of the Earth and South Lakes Action on Climate Change.

BEIS has launched [new innovation programme](#) to support the use of artificial intelligence (AI) in reducing the UK's carbon emissions.

In the latest version of its market report, '[Batteries for stationary energy storage 2023–2033](#)', IDTechEx predicts that by 2033, global cumulative stationary battery storage capacity is set to exceed 2 TWh.

On 7 December 2022, the US and the UK announced an energy partnership aimed at sustaining a

higher level of liquefied natural gas (LNG) exports to Britain and collaborating on ways to increase energy efficiency. The [UK-US Energy Security and Affordability Partnership](#) will also aim to drive investment in clean energy and exchange ideas on energy efficiency and reducing demand for gas.

In the Autumn Statement of 17 November, Chancellor Jeremy Hunt recommitted to £600bn of infrastructure spending over the next five years, including HS2 to Manchester, East West Rail and the "core" network of Northern Powerhouse Rail (NPR).

ISDA has [published](#) new industry documentation for the trading of verified carbon credits (VCCs). See Walker Morris' recent briefing on [carbon offsetting](#).

New [research](#) from Tata Steel reveals more than 10 million tonnes of steel will be needed between now and 2050: to build thousands of wind turbines at sea; to power planned solar and nuclear power plants; to build infrastructure for hydrogen production and distribution and for large-scale carbon capture and storage (CCS) projects; and to unlock new sources of oil and gas from the North Sea.

The UK Government's decision to reject a £1.2bn [cross-Channel power cable project](#) has been overturned by the High Court.



# RENEWABLES AND GREEN ENERGY

The Department for Levelling Up, Housing and Communities (DLUHC) has launched an [open consultation](#) on the relaxation of onshore wind planning regulations as part of wider reforms to national planning policy in the Levelling-up and Regeneration Bill. Onshore wind power schemes would, in future, be able to go ahead on sites that have not been designated in the local plan. DLUHC says its proposed changes to the existing NPPF footnote 54 will ensure that “local authorities have a range of routes to demonstrate their support for certain areas in their boundaries to be suitable for onshore wind”. The consultation opened on 22 December 2022 and closes on 2 March 2023.

Solar power is undergoing a boom. The International Energy Agency has forecast it will surpass coal power by 2027.

In his [review into the UK government's net zero policy](#), Chris Skidmore has called for changes in planning policy to enable a solar

“rooftop revolution”, but stopped short of recommending mandates for solar panels on new developments.

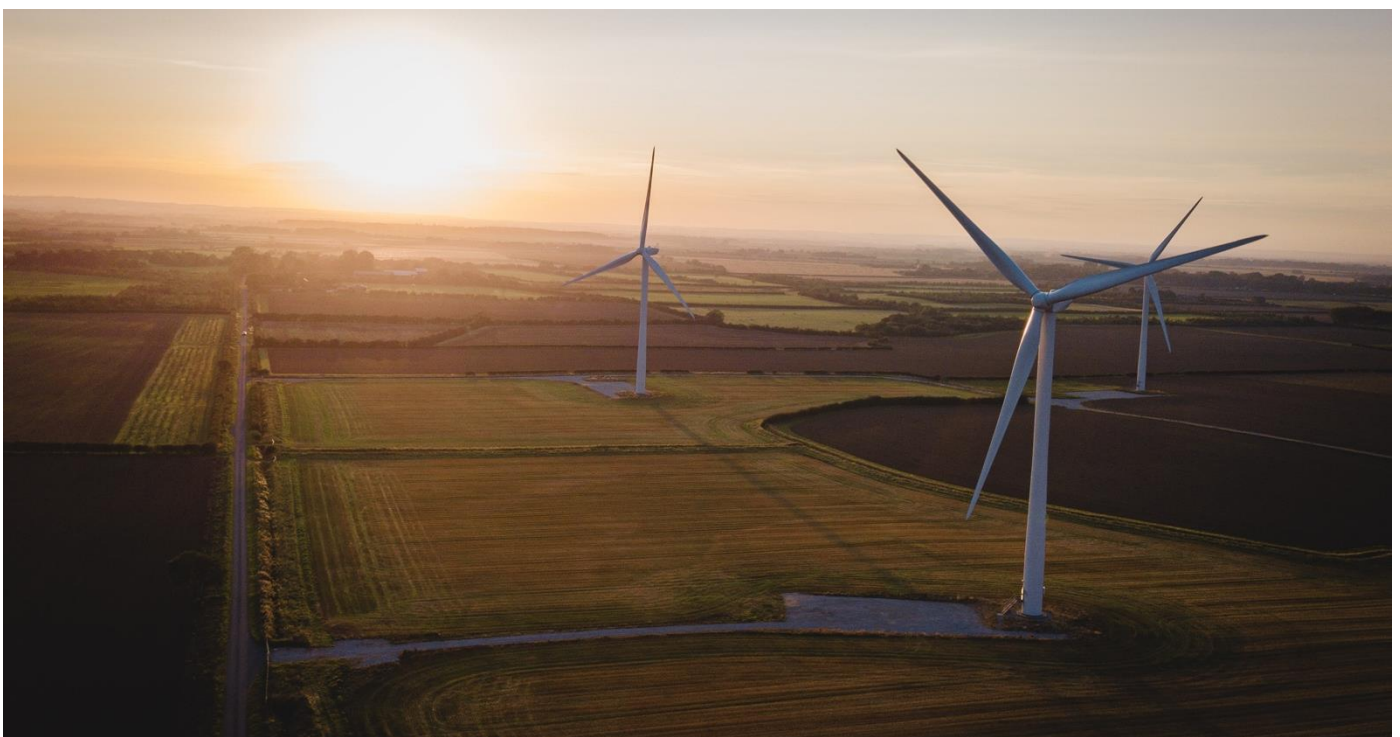
The UK's first Power Purchase Agreement (PPA) to be signed directly with a renewable energy producer and local governing authority will help to transition London away from fossil fuels. The agreement was reached with energy provider Voltalia to provide the City Corporation with all the electricity produced by the new solar farm for the next 15 years. The agreement will power major London landmarks, including Tower Bridge, Hampstead Heath and the Barbican Centre, as well as schools, social housing, open spaces and wholesale markets.

A renewable energy firm is planning to connect the UK's electricity grid with North Africa via the [world's longest undersea cable](#), to be established between Morocco and a small village in Devon. The new £16bn electricity generation facility, entirely powered by solar and wind energy combined with a battery

storage facility, could help power seven million British homes with “low-cost, reliable” energy by 2030.

Scientists in the United States have announced a [breakthrough in fusion energy that could help curb climate change](#) if companies can scale up the technology to a commercial level in the coming decades.

The government has said it will push ahead with a new nuclear plant at Sizewell C. Sizewell C will be the UK's first project to use the newly established Regulated Asset Base (RAB) funding model for nuclear. RAB is a tried and tested funding model that has already been used for other major infrastructure, such as the Thames Tideway Tunnel and London Heathrow Terminal 5. The announcement is part of the government's wider [commitment](#) to the future of nuclear power by investing £77 million to support nuclear fuel production and next generation advanced nuclear reactors in the UK.



# HYDROGEN & CCUS

DESNZ has announced a new certification scheme to verify the sustainability of low-carbon hydrogen. The scheme aims to incentivise hydrogen production, investment and use across the UK. DESNZ has also opened a [consultation](#) seeking views on the design elements of a low-carbon hydrogen certification scheme. The consultation will close on 28 April 2023.

BEIS has published its update to the market report for December 2022, summarising the UK government's [hydrogen policy developments](#) and schemes since July 2022. Policy areas considered include hydrogen production, networks and storage, uses of hydrogen in industry, hydrogen sector development (including investment, exports and imports, research and innovation),

and international leadership, including through COP27.

A policy decision is expected in 2023 on whether to allow blending (up to 20% hydrogen by volume) into the gas distribution networks. A [consultation on hydrogen transport and storage infrastructure](#), needed to facilitate this blending, closed in November 2022.

[HiiROC](#), a start-up in Hull, has developed technology that it claims will produce low-cost, zero-emission hydrogen from micro to industrial scale. The gas is produced at the point of use, thereby avoiding the cost and practical problems of storage and distribution.

A University College London [study](#) of 815 trees in Oxfordshire found capacity for carbon storage is 77 per

cent higher than earlier estimates, meaning Britain's forests could store almost twice as much carbon as previously thought.

The Environment Agency (EA) has [published](#) research, analysis and guidance, on reviewing the emerging techniques for hydrogen production from methane gas and refinery fuel gas with carbon capture, also known as 'blue' hydrogen.

The UK government has proposed banning the installation of traditional gas boilers in homes from 2026 and replacing them with "hydrogen ready" heating systems. Under the [consultation](#), published on 13 December 2022, new boilers installed after that date would continue to use natural gas but would have to be able to switch to hydrogen at a later date.



# WASTE & RESOURCES

The UK government has awarded funding to five projects turning waste into jet fuel via its £165 million [Advanced Fuels Fund](#).

The government has also [committed](#) to investing a further £25 million for innovative new technologies that will generate clean hydrogen from biomass and waste.

The Department for Environment, Food & Rural Affairs (Defra), along with the Welsh Government and the Department of Agriculture and Environment and Rural Affairs (Northern Ireland), is set to introduce a new [deposit return scheme for recycling plastic bottles and drink cans \(DRS\)](#). The scheme aims to encourage recycling by introducing special 'reverse vending machines', offering cash back for people returning bottles and cans. Defra

finally published its response to the DRS consultation in January 2023 committing to publish regulations by the end of 2023 and to implement the scheme in October 2025. Some points to note:

- All nations will be including PET drinks bottles up to 3 litres and steel/aluminium drinks cans. Wales and Scotland will also include glass bottles.
- DRS labelling will be mandatory on DRS packaging on implementation.
- DRS packaging will be excluded from the packaging waste regulations on implementation.

- All retailers of drinks in DRS materials will have to provide a deposit payment and take back service once implemented (detail to be confirmed in relation to exemptions and on-line suppliers).
- Defra will set a 90% collection target within 3 years with interim targets of 70% and 80% for the two years preceding.

Defra has published a summary of the [responses](#) to its 2022 consultation on mandatory digital waste tracking. [ENDS Report](#) suggests that the waste industry is largely in favour of the proposals, although transitioning to digital waste tracking could cost businesses up to £100,000.

# CONSTRUCTION/DEVELOPMENT

The Minimum Energy Efficiency Standard (MEES) which came into force in England and Wales on 1 April 2018, applies to private rented residential and non-domestic property and is aimed at encouraging landlords and property owners to improve the energy efficiency of their properties. Since April 2018 it has been an offence for a landlord of commercial property to sell or grant a new lease of a property which has a rating of F or G. However, from 1 April 2023, MEES will apply to all privately rented commercial property and it

will be an offence to continue to let commercial property with an EPC rating below E. As a result, from 1 April 2023, any properties with ratings of F or G (regardless of whether the tenants are new or continuing) will be considered sub-standard and landlords will face fines or other enforcement action unless an exemption applies (see below).

The UK Green Building Council has unveiled a new [toolkit](#) to help accelerate construction industry's shift towards a regenerative, circular economy.

The Construction Industry Training Board has published its [industry outlook for 2023-2027](#). It said an extra 225,000 construction workers will be needed by 2027 to cope with demand. It anticipates all parts of the UK will need more workers, with demand especially strong in private housing, infrastructure and repair and maintenance.





# GENERAL/IN-HOUSE LEGAL

## Corporate/corporate reporting

On 5 January 2023, the [Corporate Sustainability Reporting Directive](#) came into force. The new rules aim to create transparency about the impact companies are having on people and the environment. The new directive will require approximately 50,000 companies to report on sustainability. The first companies will have to comply with the new rule in the financial year 2024.

The Code Committee of the Takeover Panel have published their [response statement](#) summarising feedback received in relation to proposed amendments to the presumptions of the definition of 'acting in concert' within the Takeover Code, and setting out amendments to be made as a result.

The Financial Services and Markets Bill 2022-23 had its [second reading](#) in the House of Lords on 10 January 2023. The Bill will make widespread reforms to the UK's regulatory framework post-Brexit for the UK financial services sector.

The Financial Conduct Authority recently [announced the formation of a working group](#) to develop a code of conduct to address increasing concerns around the labelling of environmental, social and governance (ESG) benchmarks, also known as greenwashing. See [here](#) for a wealth of Walker Morris' information and advice on greenwashing.

BEIS has updated its [guidance](#) to aid with understanding of the Register of Overseas Entities and the requirements it places on overseas entities that own land within the UK.

The House of Commons Library has published an updated [briefing paper](#) in relation to the Economic Crime and Corporate Transparency Bill.

The FCA has published a [consultation paper](#) setting out proposed changes to their transparency rules on structured digital reporting of annual financial statements by certain companies.

On 16 December 2022, the FRC [announced](#) its areas of supervisory focus for corporate reporting reviews and audit quality inspections. The FRC will prioritise the following sectors: travel, hospitality and leisure; retail and personal goods; construction and materials; and industrial transportation. In addition, the FRC's Corporate Reporting Review team will carry out four thematic reviews during the year: large private companies, climate-related financial disclosures, insurance contracts and fair value measurement.

## Commercial/general

The [Procurement Bill](#) had its second reading in the House of Commons on 9 January 2023. The Bill aims to establish a single legal framework for the award of public contracts, utilities contracts, concession contracts, and defence and security contracts by contracting authorities. It will be relevant for public bodies and for any contractors/developers working with public bodies wherever any contracts or variations include works or services which are subject to procurement legislation, and/or where any contract values exceed relevant thresholds. Speak to Walker Morris' [procurement experts](#) to find out more.

In Autumn 2022, BEIS published the [Retained EU Law \(Revocation and Reform\) Bill](#) which aims to bring the majority of retained EU law to an end on 31 December 2023. If the Bill passes, it will mean sweeping regulatory changes in the UK. It could involve the wholesale re-writing of huge amounts of legislation affecting all sectors, from employment and environmental protections, to health and safety, and from food safety, to consumer protection, and more. On 9 January 2023, the House of Commons Library published a [research briefing](#) which provided an overview of the developments on the controversial Bill. Most amendments agreed so far relate mainly to drafting issues and provide greater clarification to ensure the Bill reflects the Government's intentions. The Bill completed its report stage and third reading in the House of Commons on 18 January 2023 and has now had its [first read](#) in the House of Lords.

The Finance Bill 2022-23 received Royal Assent on 10 January 2023, becoming the [Finance Act 2023](#).

An [inquiry](#) has been launched by the House of Commons International Trade Committee, seeking written submissions into the current situation for UK exporters including the barriers they face.

## People

The recent appeal decision in [Rodgers v Leeds Laser Cutting Ltd](#) confirmed that an employee had not been unfairly dismissed for leaving his place of work and refusing to return at the start of the first COVID-19 lockdown, in circumstances where the employer had advised

employees that measures had been put in place to protect them.

The High Court [announced](#) on 14 December 2022 that permission has been granted for the judicial review of regulations which allow agency workers to be used during strike action to replace striking workers. In related news, the [Strikes \(Minimum Service Levels\) Bill](#) (which, if passed, would allow the government to set a minimum level of service which must be met during strikes for various sectors) was passed by the House of Commons on 30 January and was read for the first time in the House of Lords on 31 January.

The [Immigration Skills Charge \(Amendment\) Regulations](#) have confirmed exemptions from the [Immigration Skills Charge](#) for sponsors of Scale-up Workers and for certain Global Business Mobility – Senior or Specialist Workers.

[Research](#) conducted by the Equal Parenting Project has found that more than three quarters of managers (76.5%) believe that flexible working improved productivity. Various recommendations have arisen from the research, including the suggestion that flexible working practices should be reported and made part of employers' gender pay gap obligations.

The government has [announced](#) that workers are to have a greater say over when, where, and how they work under new plans to make flexible working the default.

The recent case of [Harpur Trust v Brazel](#) brought the question of how you calculate holiday pay for workers with irregular hours into the spotlight. The biggest impact of the ruling is in respect of workers who work during certain weeks of the year, but whose contracts continue during the weeks when they are not working. The law in this area has

now been settled by the Supreme Court. For part-year workers, entitlement to holiday is 5.6 weeks per year and holiday pay should be calculated by reference to average earnings over 52 weeks, not by reference to hours worked. Following this decision, the government has launched an [eight week consultation](#) on holiday entitlement being proportionate to hours worked.

An independent taskforce set up at the government's request published its [Breaking the Class Barrier Recommendations Report](#), providing government, regulators, sector bodies and employers with a 5-point pathway intended to boost socio-economic diversity at senior levels in UK financial and professional services.

The Chartered Institute of Personnel and Development published a [report](#) providing an overview of what UK employers are currently doing to improve inclusion and diversity in their workplaces and the measures they have found to be effective. It also highlights the gaps in practice that warrant further consideration and action and sets out recommendations for practice.

In an [evidence session](#), the Economic Secretary to the Treasury confirmed that the government is not considering scrapping the Senior Managers and Certification Regime. This follows the Chancellor's announcement in December that the regime will be reviewed.

See this [briefing](#) from Walker Morris' Employment & Immigration Team on what to expect in 2023.

## Data Protection

The Information Commissioner's Office has published its first annual [tech horizons report](#). The report considers technology that is expected to emerge within the next

two to five years and focus points for businesses to consider.

See our [recent briefing](#) with practical advice on data processing and the contract legal basis under GDPR.

The government is [seeking views](#) until 1 May 2023 on software resilience and security for businesses and organisations.

The Office of Financial Sanctions Implementation published new [guidance](#) on ransomware and financial sanctions.

The National Cyber Security Centre published a [blog post](#) discussing why organisations should avoid 'blame and fear', and instead use technical measures to manage the threat from phishing. Another [blog post](#) looks at what you must check before using Managed Service Providers to administer your cloud services.

In a change of approach, the Information Commissioner's Office will be publishing all reprimands going forward, unless there is a good reason not to such as matters of national security or that it is likely to jeopardise any ongoing investigation.



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