



# Energy Act 2008

## 2008 CHAPTER 32

### PART 1

#### GAS IMPORTATION AND STORAGE

### CHAPTER 3

#### STORAGE OF CARBON DIOXIDE

#### *Licensing*

## 18 Licences

- (1) The licensing authority may grant a licence to a person in respect of one or more activities within section 17(2).
- (2) The licensing authority is—
  - (a) in the case of a licence in respect of activities within section 17(2)(a) to (c) and [<sup>F1</sup>an offshore controlled place which is not][<sup>F2</sup>in, under or over the territorial sea adjacent to Scotland][<sup>F2</sup>a Scottish controlled place][<sup>F3</sup>(an “offshore UK-controlled place”)], the [<sup>F4</sup>OGA],
  - (b) in the case of a licence in respect of [<sup>F5</sup>activities within section 17(2)(a) to (c)] and a [<sup>F6</sup>controlled place which is in, under or over ][<sup>F7</sup>the territorial sea adjacent to Scotland][<sup>F6</sup>Scottish controlled place], the Scottish Ministers,
  - (c) in the case of a licence in respect of [<sup>F8</sup>activities within section 17(2)(a) to (c)] and [<sup>F9</sup>an offshore controlled place] only part of which is in, under or over [<sup>F10</sup>the territorial sea adjacent to Scotland], either the [<sup>F4</sup>OGA] or the Scottish Ministers,<sup>F11</sup> ...
- [<sup>F12</sup>(ca) in the case of a licence in respect of activities within section 17(2)(a) to (c) and an English controlled place, the [<sup>F4</sup>OGA],
- (cb) in the case of a licence in respect of activities within section 17(2)(a) to (c) and a Welsh controlled place, the Welsh Ministers,

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- (cc) in the case of a licence in respect of activities within section 17(2)(a) to (c) and a Northern Ireland controlled place, the Department of Enterprise, Trade and Investment in Northern Ireland,
- (cd) in the case of a licence in respect of activities within section 17(2)(a) to (c) and a controlled place part of which is a Welsh controlled place and the rest of which is an English controlled place or an offshore UK-controlled place (or a combination of such places), either the Welsh Ministers or the [F4OGA],
- (ce) in the case of a licence in respect of activities within section 17(2)(a) to (c) and a controlled place part of which is a Northern Ireland controlled place and the rest of which is an offshore UK-controlled place, either the Department of Enterprise, Trade and Investment in Northern Ireland or the [F4OGA], and]
- (d) in the case of a licence in respect of activities within section 17(2)(d), whichever of the [F4OGA][F13, the Welsh Ministers, the Department of Enterprise, Trade and Investment in Northern Ireland] or the Scottish Ministers licenses the activities for the purposes of which the installation is established or maintained;

and in this Chapter references to the licensing authority in relation to a licence falling within paragraph (c)[F14, (cd) or (ce)] are references to the person who grants the licence or, if the licence has not yet been granted, to whom the application for the licence was made.

- (3) The controlled place in respect of which a licence is granted may be determined by reference to the provisions of a Crown lease which has been or may be granted.

[F15(4) For this purpose a “Crown lease” means (as the case may be)—

- (a) a lease of property forming part of the Crown Estate, or an authorisation to exercise rights forming part of that Estate (whether by virtue of section 1 or otherwise), or
- (b) a lease of property forming part of the Scottish assets, or an authorisation to exercise rights forming part of those assets (whether by virtue of section 1 or otherwise).]

[F16(4ZA) In subsection (4), “Scottish assets” means any property, rights and interests to which section 90B(5) of the Scotland Act 1998 applies.]

[F17(4A) In this section—

“English controlled place” means a controlled place in England or in, under or over so much of the internal waters of the United Kingdom as are adjacent to England;

“Northern Ireland controlled place” means a controlled place in Northern Ireland or in, under or over so much of the internal waters of the United Kingdom as are adjacent to Northern Ireland;

“Welsh controlled place” means a controlled place in Wales or in, under or over so much of the internal waters of the United Kingdom as are adjacent to Wales.]

[F18(5) In this section, “Scottish controlled place” means—

- (a) a controlled place in Scotland, or
- (b) a controlled place within the seaward limits of the territorial sea adjacent to Scotland. ]

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### Textual Amendments

- F1** Words in s. 18(2)(a) substituted (16.11.2011) by The Storage of Carbon Dioxide (Amendment of the Energy Act 2008 etc.) Regulations 2011 (S.I. 2011/2453), **reg. 3(1)(a)(i)**
- F2** Words in s. 18(2)(a) substituted (S.) (1.4.2011) by The Energy Act 2008 (Storage of Carbon Dioxide) (Scotland) Regulations 2011 (S.S.I. 2011/224), regs. 1, **2(3)(a)**
- F3** Words in s. 18(2)(a) inserted (16.11.2011) by The Storage of Carbon Dioxide (Amendment of the Energy Act 2008 etc.) Regulations 2011 (S.I. 2011/2453), **reg. 3(1)(a)(ii)**
- F4** Word in s. 18(2) substituted (1.10.2016) by Energy Act 2016 (c. 20), s. 84(3), **Sch. 1 para. 53**; S.I. 2016/920, **reg. 2(a)**
- F5** Words in s. 18(2)(b) substituted (16.11.2011) by The Storage of Carbon Dioxide (Amendment of the Energy Act 2008 etc.) Regulations 2011 (S.I. 2011/2453), **reg. 3(1)(b)(i)**
- F6** Words in s. 18(2)(b) substituted (S.) (1.4.2011) by The Energy Act 2008 (Storage of Carbon Dioxide) (Scotland) Regulations 2011 (S.S.I. 2011/224), regs. 1, **2(3)(b)**
- F7** Words in s. 18(2)(b) substituted (16.11.2011) by The Storage of Carbon Dioxide (Amendment of the Energy Act 2008 etc.) Regulations 2011 (S.I. 2011/2453), **reg. 3(1)(b)(ii)**
- F8** Words in s. 18(2)(c) substituted (16.11.2011) by The Storage of Carbon Dioxide (Amendment of the Energy Act 2008 etc.) Regulations 2011 (S.I. 2011/2453), **reg. 3(1)(c)(i)**
- F9** Words in s. 18(2)(c) substituted (16.11.2011) by The Storage of Carbon Dioxide (Amendment of the Energy Act 2008 etc.) Regulations 2011 (S.I. 2011/2453), **reg. 3(1)(c)(ii)**
- F10** Words in s. 18(2)(c) substituted (1.4.2011 for S. and 16.11.2011 for E.W. N.I.) by The Energy Act 2008 (Storage of Carbon Dioxide) (Scotland) Regulations 2011 (S.S.I. 2011/224), regs. 1, **2(3)(c)**; The Storage of Carbon Dioxide (Amendment of the Energy Act 2008 etc.) Regulations 2011 (S.I. 2011/2453), **reg. 3(1)(c)(iii)**
- F11** Word in s. 18(2) omitted (16.11.2011) by virtue of The Storage of Carbon Dioxide (Amendment of the Energy Act 2008 etc.) Regulations 2011 (S.I. 2011/2453), **reg. 3(1)(d)**
- F12** S. 18(2)(ca)-(ce) inserted (16.11.2011) by The Storage of Carbon Dioxide (Amendment of the Energy Act 2008 etc.) Regulations 2011 (S.I. 2011/2453), **reg. 3(1)(d)**
- F13** Words in s. 18(2)(d) inserted (16.11.2011) by The Storage of Carbon Dioxide (Amendment of the Energy Act 2008 etc.) Regulations 2011 (S.I. 2011/2453), **reg. 3(1)(e)**
- F14** Words in s. 18(2)(d) inserted (16.11.2011) by The Storage of Carbon Dioxide (Amendment of the Energy Act 2008 etc.) Regulations 2011 (S.I. 2011/2453), **reg. 3(1)(f)**
- F15** S. 18(4) substituted (1.4.2017) by The Crown Estate Transfer Scheme 2017 (S.I. 2017/524), art. 1(2), **Sch. 5 para. 39(3)(a)**
- F16** S. 18(4ZA) inserted (1.4.2017) by The Crown Estate Transfer Scheme 2017 (S.I. 2017/524), art. 1(2), **Sch. 5 para. 39(3)(b)**
- F17** S. 18(4A) inserted (16.11.2011) by The Storage of Carbon Dioxide (Amendment of the Energy Act 2008 etc.) Regulations 2011 (S.I. 2011/2453), **reg. 3(2)**
- F18** S. 18(5) inserted (S.) (1.4.2011) by The Energy Act 2008 (Storage of Carbon Dioxide) (Scotland) Regulations 2011 (S.S.I. 2011/224), regs. 1, **2(3)(d)**

### Commencement Information

- I1** S. 18 in force at 6.4.2009 by S.I. 2009/45, **art. 4(a)(ii)**

## 19 Requirements relating to grant of licences

- (1) Each licensing authority may by regulations make provision about the circumstances in which it may grant licences, including—
- (a) provision about the requirements to be met by or in relation to an applicant, and

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- (b) provision about any other requirements which must be met for a licence to be granted.
- (2) Regulations under subsection (1)(a) may, in particular—
- (a) prescribe the persons, or classes of persons, by whom an application for a licence may be made;
  - (b) prescribe the manner in which an application must be made;
  - (c) prescribe the information which an application must contain and any documents which must accompany it;
  - (d) require an application to be accompanied by a fee of an amount prescribed by, or determined in accordance with, the regulations;
  - (e) require an applicant, before a licence is granted, to make arrangements (whether by way of trust or otherwise) to provide financial security in respect of the applicant's future obligations relating to the activities under the licence (whether those obligations will or may arise under the licence or otherwise).
- [<sup>F19</sup>(2A) Where the licensing authority is the OGA—
- (a) regulations under subsection (1) are to be made by the Secretary of State (and not by the OGA),
  - (b) the Secretary of State must consult the OGA before making the regulations, and
  - (c) subsection (2)(d) does not apply.]
- [<sup>F20</sup>(3) In subsection (1) “licensing authority” does not include the Welsh Ministers or the Department of Enterprise, Trade and Investment in Northern Ireland.]

#### Textual Amendments

**F19** S. 19(2A) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 1 para. 54](#); S.I. 2016/920, reg. 2(a)

**F20** S. 19(3) inserted (16.11.2011) by [The Storage of Carbon Dioxide \(Amendment of the Energy Act 2008 etc.\) Regulations 2011 \(S.I. 2011/2453\)](#), [reg. 4](#)

#### Commencement Information

**I2** S. 19 in force at 6.4.2009 by [S.I. 2009/45](#), [art. 4\(a\)\(ii\)](#)

## 20 Terms and conditions

- (1) A licence may be granted on such terms and subject to such conditions as the licensing authority considers appropriate, subject to regulations under section 21.
- (2) Subject to such regulations, a licence may, in particular, include provision of a kind mentioned in subsections (3) to (7).
- (3) A licence may include—
  - (a) provision about the circumstances in which financial security (which may be provided by way of a trust or other arrangements) may be required in respect of the obligations mentioned in section 19(2)(e) (in addition to any security required by virtue of that section), and the form of any such security;
  - (b) provision about the circumstances in which financial security may be released (in whole or in part);

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- (c) provision enabling the licensing authority to review the licence in specified circumstances or at specified intervals;
  - (d) provision enabling the licensing authority, after consulting the licence holder, to modify the licence in specified circumstances (with or without the consent of the licence holder);
  - (e) provision preventing or enabling the licensing authority to prevent a licence holder, in specified circumstances, from carrying on an activity in respect of which the licence was granted;
  - (f) provision about closure of a carbon storage facility;
  - (g) provision about obligations of a licence holder between closure of a carbon storage facility and termination of the licence;
  - (h) provision about termination of the licence (which may include provision about financial arrangements).
- (4) The provisions of a licence may be expressed by reference to provision made in a Crown lease and, in particular, may provide—
- (a) for the commencement of the licence to be conditional upon the commencement of a Crown lease which has been or may be granted in respect of the controlled place to which the licence relates or any part of that place;
  - (b) for the period of the licence to be determined by reference to the period of such a Crown lease.
- (5) A licence may authorise, in such circumstances and subject to such conditions as are specified, the transfer of the licence to another person (or the inclusion of another person as a joint licence holder).
- (6) The provisions of a licence may include—
- (a) provision requiring the licence holder to obtain the prior written consent of the licensing authority or another person for specified acts or omissions;
  - (b) provision providing that any such consent may be given subject to conditions.
- (7) The conditions imposed on a consent by virtue of subsection (6)(b) may include conditions requiring, or otherwise providing for, the modification of the licence in such manner as the licensing authority considers appropriate.
- (8) In this section—
- “carbon storage facility” means a controlled place, or part of a controlled place, in which carbon dioxide has been stored pursuant to a licence;
  - “closure”, in relation to a carbon storage facility, means the point at which carbon dioxide has ceased to be added to the facility and the licence holder intends, or the licensing authority directs in accordance with the licence, that the cessation should be permanent;
  - “Crown lease” has the same meaning as in section 18;
  - “specified”, in relation to a licence, means specified in, or determined in accordance with, the licence.

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**Commencement Information**

**I3** S. 20 in force at 6.4.2009 by S.I. 2009/45, art. 4(a)(ii)

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## 21 Content of licences: regulations

- (1) Each licensing authority may make regulations about the terms and conditions of licences granted by it.
- (2) Regulations under subsection (1) may specify that a licence must contain specified provisions or provisions of a specified description.

[<sup>F21</sup>(2A) Where the licensing authority is the OGA—

- (a) regulations under subsection (1) are to be made by the Secretary of State (and not by the OGA), and
- (b) the Secretary of State must consult the OGA before making the regulations.]

[<sup>F22</sup>(3) In subsection (1) “licensing authority” does not include the Welsh Ministers or the Department of Enterprise, Trade and Investment in Northern Ireland.]

### Textual Amendments

**F21** S. 21(2A) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 1 para. 55](#); S.I. 2016/920, reg. 2(a)

**F22** S. 21(3) inserted (16.11.2011) by [The Storage of Carbon Dioxide \(Amendment of the Energy Act 2008 etc.\) Regulations 2011 \(S.I. 2011/2453\)](#), [reg. 5](#)

### Commencement Information

**I4** S. 21 in force at 6.4.2009 by [S.I. 2009/45](#), [art. 4\(a\)\(ii\)](#)

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