



Energy Act 2023

2023 CHAPTER 52

PART 1

LICENSING OF CARBON DIOXIDE TRANSPORT AND STORAGE

CHAPTER 1

LICENSING OF ACTIVITIES

General functions

1 Principal objectives and general duties of Secretary of State and economic regulator

- (1) The principal objectives of the Secretary of State and the GEMA in carrying out their respective functions under this Part are to—
 - (a) protect the interests of current and future transport and storage network users;
 - (b) protect the interests of any consumers whose interests the Secretary of State or the economic regulator (as the case may be) considers may be impacted by the exercise of their respective functions under this Part;
 - (c) promote the efficient and economic development and operation of transport and storage networks, having regard to the need for licence holders to be able to finance their licensable activities.
- (2) In this Part the GEMA is referred to as the “economic regulator”.
- (3) The Secretary of State and the economic regulator must carry out their respective functions under this Part in the manner which the Secretary of State or the economic regulator (as the case may be) considers is best calculated to further the principal objectives, wherever appropriate by—
 - (a) promoting effective competition between persons engaged in, or in commercial activities connected with, the activities mentioned in [section 2\(2\)](#);

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- (b) promoting the resilience of transport and storage networks;
 - (c) protecting the public from dangers arising from the construction, operation and decommissioning of infrastructure used for the purposes of activities mentioned in [section 2\(2\)](#).
- (4) In carrying out functions under this Part in accordance with the preceding provisions of this section, the Secretary of State or the economic regulator (as the case may be) must have regard to—
- (a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and any other principles appearing to the Secretary of State or the economic regulator to represent the best regulatory practice;
 - (b) the need to contribute to the achievement of sustainable development.
- (5) In carrying out functions under this Part in accordance with the preceding provisions of this section the Secretary of State must have regard to the Secretary of State’s duties under sections 1 and 4(1)(b) of the Climate Change Act 2008 (carbon targets and budgets).
- (6) In carrying out functions under this Part in accordance with the preceding provisions of this section, the economic regulator must have regard to—
- (a) the need to assist the Secretary of State’s compliance with the duties mentioned in [subsection \(5\)](#);
 - (b) the targets specified in [subsection \(8\)](#).
- (7) In exercising their respective functions in relation to licensable activities, the Secretary of State and the economic regulator may have regard to the desirability of the efficient and effective operation of the energy system (or any part of it) in the United Kingdom or any part of the United Kingdom.
- (8) The targets referred to in [subsection \(6\)\(b\)](#) are—
- (a) the net-zero emissions target, as defined in section A1(1) of the [Climate Change \(Scotland\) Act 2009 \(asp 12\)](#);
 - (b) the interim targets, as defined in section 2 of that Act;
 - (c) a target in, or set under, section 1 or 2 of the Climate Change Act (Northern Ireland) 2022;
 - (d) a target in, or set under, section 29 or 30 of the [Environment \(Wales\) Act 2016 \(anaw 3\)](#).
- (9) In this section—
- “transport and storage network user” means a person who is, or seeks to be, a party to arrangements for carbon dioxide to be transported to a relevant site for the purpose of disposal by way of geological storage;
- “transport and storage networks” means infrastructure and facilities for—
- (a) the disposal of carbon dioxide by way of geological storage (or injection for the purposes of geological storage) at a relevant site, or
 - (b) the transportation of carbon dioxide to a relevant site for the purpose of such disposal;
- “relevant site” means a site that is—
- (a) in the United Kingdom, or
 - (b) in, under or over—
 - (i) the territorial sea adjacent to the United Kingdom, or

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- (ii) waters in a Gas Importation and Storage Zone (within the meaning given by section 1 of the Energy Act 2008).
- (10) For the purposes of this Part activities are “licensable activities” if undertaking them without the authority of a licence or exemption constitutes an offence under [section 2\(1\)](#).

Commencement Information

II [S. 1](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

Licensable activities

2 Prohibition on unlicensed activities

- (1) It is an offence for a person to carry on an activity within [subsection \(2\)](#) unless the person is authorised to do so by a licence.
- (2) The activities are—
- operating a site for the disposal of carbon dioxide by way of geological storage;
 - providing a service of transporting carbon dioxide by a licensable means of transportation.
- (3) In this Part “licensable means of transportation” means—
- a pipe or system of pipes, or
 - any other means of transportation that may be specified by regulations made by the Secretary of State,
- which falls within [subsection \(4\)](#).
- (4) A means of transportation falls within this subsection if it is used (with or without other means of transportation) for transporting carbon dioxide all or part of the way to a site for the geological storage of carbon dioxide.
- (5) A person who commits an offence under this section is liable—
- on summary conviction in England and Wales, to a fine;
 - on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum;
 - on conviction on indictment, to a fine.
- (6) No proceedings may be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Secretary of State or the economic regulator.
- (7) Regulations under [subsection \(3\)\(b\)](#) may make consequential, transitional, incidental or supplementary provision including—
- amendments (or repeals or revocations) in any provision of this Act or any other enactment, and
 - provision modifying any standard conditions of licences or provision determining the conditions which are to be standard conditions for the purposes of licences authorising the undertaking of activities which are to become licensable activities.

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- (8) But regulations made by virtue of [subsection \(7\)\(a\)](#) may not make provision amending (or repealing or revoking) any provision of—
- (a) an Act of the Scottish Parliament, or an instrument made under such an Act, unless the Scottish Ministers have consented to the making of that provision;
 - (b) a Measure or Act of Senedd Cymru, or an instrument made under such a Measure or Act, unless the Welsh Ministers have consented to the making of that provision;
 - (c) Northern Ireland legislation, or an instrument made under Northern Ireland legislation, unless the Department for the Economy in Northern Ireland has consented to the making of that provision.
- (9) Regulations under [subsection \(3\)\(b\)](#) are subject to the affirmative procedure.
- (10) For the purposes of this Part the person who “operates” a site for the geological storage of carbon dioxide is the person who carries on or (where different) controls activities at the site.

Commencement Information

I2 [S. 2](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

3 Consultation on proposals for additional activities to become licensable

- (1) Before making regulations under [section 2\(3\)\(b\)](#), the Secretary of State must give notice—
- (a) stating that the Secretary of State proposes to make regulations providing for the means of transportation in question to become a licensable means of transportation, and
 - (b) specifying a reasonable period (of not less than 28 days from the date of publication of the notice) within which representations or objections may be made with respect to the proposal,
- and must consider any representations or objections duly made and not withdrawn.
- (2) The notice must be given—
- (a) by sending a copy of the notice to the economic regulator, the appropriate devolved authorities and any other body the Secretary of State considers appropriate, and
 - (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons likely to be affected by such regulations.
- (3) For the purposes of this section the “appropriate devolved authorities” are—
- (a) the Welsh Ministers, if the regulations contain provision that would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
 - (b) the Scottish Ministers, if the regulations contain provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (c) the Department for the Economy in Northern Ireland, if the regulations contain provision that—

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- (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
- (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.

Commencement Information

I3 [S. 3](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

4 Territorial scope of prohibition

Section [2\(1\)](#) applies to activities in, above or below—

- (a) the territorial sea adjacent to the United Kingdom, or
- (b) waters in a Gas Importation and Storage Zone (within the meaning given by section 1 of the Energy Act 2008),

as it applies to activities in the United Kingdom.

Commencement Information

I4 [S. 4](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

5 Exemption from prohibition

- (1) The Secretary of State may by regulations grant exemption from the prohibition under [section 2\(1\)](#).
- (2) An exemption may be granted—
 - (a) to a specified person, or persons of a specified class;
 - (b) generally or to such extent as may be specified;
 - (c) unconditionally or subject to such conditions as may be specified.
- (3) Before making regulations under [subsection \(1\)](#) the Secretary of State must give notice—
 - (a) stating that the Secretary of State proposes to make such regulations and setting out the terms of the proposed regulations,
 - (b) stating the reasons why the Secretary of State proposes to make the regulations in the terms proposed, and
 - (c) specifying the time (which must be not less than 28 days from the date of publication of the notice) within which representations with respect to the proposals may be made,and must consider any representations which are duly made in respect of the proposals and not withdrawn.
- (4) The notice required by [subsection \(3\)](#) must be given—
 - (a) by serving a copy of it on the economic regulator and any appropriate devolved authority, and

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- (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the proposed regulations.
- (5) Notice of an exemption granted to a person is to be given—
- (a) by serving a copy of the exemption on the person, and
 - (b) by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of other persons who may be affected by it.
- (6) Notice of an exemption granted to persons of a class must be given by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of—
- (a) persons of that class, and
 - (b) other persons who may be affected by it.
- (7) An exemption may be granted—
- (a) indefinitely, or
 - (b) for a period specified in, or determined by or under, the exemption.
- (8) Conditions subject to which an exemption is granted may (in particular) require any person carrying on any activity in pursuance of the exemption—
- (a) to comply with any direction given by a relevant authority as to such matters as are specified in the exemption or are of a description so specified,
 - (b) to do (or not do) such things as are specified in the exemption or are of a description so specified, except so far as the Secretary of State or a relevant authority consents to the person’s not doing (or doing) them, and
 - (c) to refer for determination by the Secretary of State or a relevant authority such questions arising under the exemption as are specified in the exemption or are of a description so specified.
- (9) For the purposes of this section the “appropriate devolved authorities” are—
- (a) the Scottish Ministers, if the regulations under [subsection \(1\)](#) contain provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (b) the Welsh Ministers, if those regulations contain provision that would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
 - (c) the Department for the Economy in Northern Ireland, if those regulations contain provision that—
 - (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.
- (10) In [subsection \(8\)](#) “relevant authority” means a person specified in the conditions.

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Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Chapter 1. (See end of Document for details)

Commencement Information

I5 S. 5 in force at 26.12.2023, see s. 334(3)(a)

6 Revocation or withdrawal of exemption

- (1) The Secretary of State may by regulations revoke regulations by which an exemption was granted to a person or vary regulations by which more than one exemption was so granted so as to terminate any of the exemptions—
 - (a) at the person’s request,
 - (b) in accordance with any provision of the regulations by which the exemption was granted, or
 - (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (2) The Secretary of State may by regulations revoke regulations by which an exemption was granted to persons of a class or vary regulations by which more than one exemption was so granted so as to terminate any of the exemptions—
 - (a) in accordance with any provision of the regulations by which the exemption was granted, or
 - (b) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (3) The Secretary of State may by regulations withdraw an exemption granted to persons of a class from any person of that class—
 - (a) at the person’s request,
 - (b) in accordance with any provision of the regulations by which the exemption was granted, or
 - (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect in the case of the person.
- (4) Before making regulations under [subsection \(1\)\(b\)](#) or (c), [\(2\)](#) or [\(3\)\(b\)](#) or (c), the Secretary of State must—
 - (a) give notice of the proposal to do so (with reasons) and of a period within which representations may be made to the Secretary of State, and
 - (b) consider any representations which are duly made and not withdrawn.
- (5) The notice under [subsection \(4\)](#) must be given—
 - (a) to the economic regulator and any appropriate devolved authority,
 - (b) where the Secretary of State is proposing to make regulations under [subsection \(1\)\(b\)](#) or (c), by serving a copy of it on the person to whom the exemption was granted,
 - (c) where the Secretary of State is proposing to make regulations under [subsection \(2\)](#), by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of the class of persons to whom the exemption was granted, and
 - (d) where the Secretary of State is proposing to make regulations under [subsection \(3\)\(b\)](#) or (c), by serving a copy of it on the person from whom the Secretary of State proposes to withdraw the exemption.
- (6) For the purposes of [subsection \(5\)](#) the “appropriate devolved authorities” are—

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- (a) the Scottish Ministers, if the regulations to which the notice relates contain provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
- (b) the Welsh Ministers, if those regulations contain provision that would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
- (c) the Department for the Economy in Northern Ireland, if those regulations contain provision that—
 - (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.

(7) Regulations under this section and [section 5](#) are subject to the negative procedure.

Commencement Information

I6 [S. 6](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

Grant and conditions of licences

7 Power to grant licences

- (1) The economic regulator may grant a licence authorising a person to carry on—
 - (a) activities falling within [section 2\(2\)\(a\)](#);
 - (b) activities falling within [section 2\(2\)\(b\)](#).
- (2) A licence—
 - (a) must be in writing;
 - (b) is to continue in force for such period as may be specified in or determined by or under the licence, unless previously revoked in accordance with any term of the licence.

Commencement Information

I7 [S. 7](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

8 Power to create licence types

- (1) The Secretary of State may by regulations provide that different types of licence may be granted under [section 7\(1\)](#) in respect of different descriptions of activity falling within [section 2\(2\)](#).
- (2) Regulations under this section may make consequential, transitional, incidental or supplementary provision including—
 - (a) amendments (or repeals or revocations) in any provision of this Act or any other enactment, and

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- (b) provision modifying any standard conditions of licences or provision determining the conditions which are to be standard conditions for the purposes of new types of licences.
- (3) Before making regulations under this section containing provision within devolved competence, the Secretary of State must give notice to each relevant devolved authority—
- (a) stating that the Secretary of State proposes to make regulations under this section, and
 - (b) specifying the period (of not less than 28 days from the date on which the notice is given) within which representations may be made with respect to the provision within the relevant devolved competence,
- and must consider any representations duly made and not withdrawn.
- (4) For the purposes of this section “relevant devolved authority” means—
- (a) the Scottish Ministers, if the regulations contain provision within Scottish devolved competence;
 - (b) the Welsh Ministers, if the regulations contain provision within Welsh devolved competence;
 - (c) the Department for the Economy in Northern Ireland, if the regulations contain provision within Northern Ireland devolved competence;
- and “the relevant devolved competence”, in relation to a relevant devolved authority, is to be construed accordingly.
- (5) For the purposes of this section, provision—
- (a) is within Scottish devolved competence if it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (b) is within Welsh devolved competence if it would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
 - (c) is within Northern Ireland devolved competence if it—
 - (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998;
- and references to provision being within devolved competence are to provision that is within Scottish, Welsh or Northern Ireland devolved competence.
- (6) Regulations under this section are subject to the affirmative procedure.

Commencement Information

18 [S. 8](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

9 Procedure for licence applications

- (1) The Secretary of State, or the economic regulator with the approval of the Secretary of State, may by regulations—

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- (a) make provision about the form and manner in which an application for a licence must be made;
 - (b) authorise the grantor to require that an application is accompanied by a fee for processing the application of an amount determined in accordance with the regulations.
- (2) The Secretary of State may by regulations make provision about the procedure for applications for a licence (in addition to any provision that may be made under [subsection \(1\)](#)) including, for example, provision—
- (a) requiring that a decision to refuse a licence must be accompanied by reasons for the decision;
 - (b) imposing requirements with regard to the publication of decisions to refuse a licence.
- (3) Before making regulations under [subsection \(2\)](#) or [\(7\)](#) the Secretary of State must—
- (a) consult the economic regulator and the appropriate devolved authorities, and
 - (b) specify a period of not less than 28 days within which representations or objections with respect to the proposed regulations may be made,
- and the Secretary of State must consider any representations or objections which are duly made and not withdrawn.
- (4) Before granting a licence the economic regulator must give notice—
- (a) stating that the economic regulator proposes to grant the licence,
 - (b) stating the reasons why the economic regulator proposes to grant the licence, and
 - (c) specifying the time (which must not be less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed licence may be made,
- and must consider any representations or objections which are duly made and not withdrawn.
- (5) A notice under [subsection \(4\)](#) must be given by—
- (a) publishing the notice in such manner as the economic regulator considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the licence, and
 - (b) sending a copy of the notice to—
 - (i) the Scottish Ministers, if an activity that would be authorised by the proposed licence is within Scottish devolved competence;
 - (ii) the Welsh Ministers, if an activity that would be authorised by the licence is within Welsh devolved competence;
 - (iii) the Department for the Economy in Northern Ireland, if an activity that would be authorised by the licence is within Northern Ireland devolved competence.
- (6) [Section 17\(4\)](#) (activities authorised by a licence: devolved competence) applies for the purposes of [subsection \(5\)\(b\)](#) of this section as it applies for the purposes of [section 17](#).
- (7) The Secretary of State may by regulations make provision, in relation to licences, about the matters to be taken into account in determining whether an applicant for a licence should be granted the licence.
- (8) Regulations under this section are subject to the negative procedure.

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- (9) Consultation before the passing of this Act is as effective for the purposes of subsections (3) and (4) as consultation after that time.
- (10) In this Part “grantor”, in relation to a licence or an application for a licence, means the person who grants or, as the case may be, has power to grant, the licence.
- (11) For the purposes of this section “appropriate devolved authority”, in relation to regulations, means—
- (a) the Scottish Ministers, if the regulations contain provision within Scottish devolved competence;
 - (b) the Welsh Ministers, if the regulations contain provision within Welsh devolved competence;
 - (c) the Department for the Economy in Northern Ireland, if the regulations contain provision within Northern Ireland devolved competence.
- (12) For the purposes of this section, provision—
- (a) is within Scottish devolved competence if it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (b) is within Welsh devolved competence if it would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
 - (c) is within Northern Ireland devolved competence if it—
 - (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.
- (13) The Statutory Instruments Act 1946 applies in relation to the power of the economic regulator to make regulations under subsection (1) as if the economic regulator were a Minister of the Crown.
- (14) Any sums received by the economic regulator or the Secretary of State by virtue of this section must be paid into the Consolidated Fund.

Commencement Information

19 S. 9 in force at 26.12.2023, see s. 334(3)(a)

10 Competitive tenders for licences

- (1) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate for facilitating the making, in prescribed cases, of a determination on a competitive basis of the person to whom a licence is to be granted.
- (2) That provision may include—
- (a) provision, in prescribed cases, for the publication of a proposal to grant a licence;

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- (b) provision for the inclusion in such a proposal of an invitation to apply for a licence;
 - (c) provision restricting the making of applications for a licence and imposing requirements as to the period within which they must be made;
 - (d) provision for regulating the manner in which applications are considered and determined;
 - (e) provision authorising the Secretary of State to direct, in relation to a particular competition, that specified functions which would, apart from the direction, be exercisable by the economic regulator are, so far as they relate to that competition, to be exercised instead by a specified person.
- (3) Before making regulations under [subsection \(1\)](#) the Secretary of State must give notice to the economic regulator and the appropriate devolved authorities—
- (a) stating that the Secretary of State proposes to make regulations under this section, and
 - (b) specifying the period (of not less than 28 days from the date on which the notice is given) within which representations must be made with respect to the proposed provisions,
- and must consider any representations duly made and not withdrawn.
- (4) Regulations under [subsection \(1\)](#)—
- (a) may make provision by reference to a determination by the economic regulator or to the opinion of the economic regulator as to any matter;
 - (b) may dispense with or supplement provision made in relation to applications for licences under [section 9](#).
- (5) Regulations under [subsection \(1\)](#) are subject to the affirmative procedure.
- (6) For the purposes of [subsection \(3\)](#) the “appropriate devolved authorities” are—
- (a) the Scottish Ministers, if the regulations contain provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (b) the Welsh Ministers, if the regulations contain provision that would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
 - (c) the Department for the Economy in Northern Ireland, if the regulations contain provision that—
 - (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.
- (7) In this section—
- “competition” means a determination such as is mentioned in [subsection \(1\)](#);
 - “prescribed” means prescribed in, or determined under, regulations under [subsection \(1\)](#);
 - “specified”, in relation to a direction under [subsection \(2\)\(e\)](#), means specified in the direction.

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110 S. 10 in force at 26.12.2023, see s. 334(3)(a)

11 Conditions of licences: general

- (1) A licence may include—
 - (a) such conditions (whether or not relating to the activities authorised by the licence) as appear to the grantor to be requisite or expedient having regard to the duties imposed by [section 1](#) (principal objectives of Secretary of State and economic regulator), and
 - (b) conditions requiring the making to the economic regulator of a payment on the grant of the licence, or payments during the currency of the licence, or both, of such amount or amounts as may be determined by or under the licence.
- (2) Without prejudice to the generality of paragraph (a) of [subsection \(1\)](#), conditions included in a licence by virtue of that paragraph may require the licence holder—
 - (a) to comply with any direction given by the economic regulator or the Secretary of State as to such matters as are specified in the licence or are of a description so specified,
 - (b) to consent to the disclosure of information provided in accordance with a direction given to the licence holder,
 - (c) except in so far as the economic regulator or Secretary of State consents to the licence holder’s doing (or not doing) them, not to do (or to do) such things as are specified in the licence or are of a description so specified,
 - (d) to refer for determination by the economic regulator or Secretary of State such questions arising under the licence, or under any document referred to in the licence, as are specified in the licence or are of a description so specified, and
 - (e) to refer for approval by the economic regulator or the Secretary of State such things as are (or may be) required to be done under the licence, and such contracts or agreements made before the grant of the licence, as are specified in the licence or are of a description so specified.
- (3) Without prejudice to the generality of paragraph (a) of [subsection \(1\)](#), conditions in a licence may also include—
 - (a) provision about the revenue that the licence holder may receive in respect of its activities (the licence holder’s “allowed revenue”);
 - (b) provision about how the licence holder’s allowed revenue is to be calculated.
- (4) In [subsection \(3\)](#) the reference to revenue that the licence holder may receive in respect of its activities includes revenue that is calculated by reference to estimates of the licence holder’s decommissioning costs, as defined in [section 92](#) (financing of costs of decommissioning etc).
- (5) Without prejudice to the generality of paragraph (a) of [subsection \(1\)](#), conditions which are described in [subsection \(6\)](#) may be included in a licence by virtue of that paragraph, in respect of circumstances where a person (“the licence holder”) holds such a licence, and another person (“the candidate”)—
 - (a) has applied or is considering whether to apply for a licence, or
 - (b) is considering whether to apply for financial support for carbon capture activities.

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- (6) The conditions in this subsection are conditions which require the licence holder to comply with a direction given by the economic regulator or the Secretary of State requiring the licence holder to provide to the candidate—
 - (a) information in relation to the activities authorised by the licence, and
 - (b) any other assistance the candidate may reasonably require, for the purpose of determining whether to—
 - (i) apply for a licence, or
 - (ii) (as the case may be) apply for financial support for carbon capture activities.
- (7) Conditions included in a licence may contain provision for the conditions—
 - (a) to have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions, or
 - (b) to be modified in such manner as may be specified in the conditions at such times and in such circumstances as may be so determined.
- (8) Any provision included by virtue of [subsection \(7\)](#) in a licence is to have effect in addition to the provision made by this Part with respect to the modification of the conditions of a licence.
- (9) Conditions included in a licence may provide for references in the conditions to any document to operate as references to that document as revised or re-issued from time to time.
- (10) Any sums received by the economic regulator in consequence of the provisions of any condition of a licence must be paid into the Consolidated Fund.

Commencement Information

III [S. 11](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

12 Standard conditions of licences

- (1) The Secretary of State may determine the conditions that are to be the standard conditions of licences.
- (2) The Secretary of State must publish any standard conditions determined under [subsection \(1\)](#) in whatever manner the Secretary of State considers appropriate.
- (3) Subject to subsections [\(4\)](#) and [\(5\)](#), each condition which is a standard condition is to be incorporated by reference in each licence.
- (4) Subsection [\(3\)](#) does not apply to a licence granted before the publication of the standard condition.
- (5) Subject to the following provisions of this section, the grantor of a licence in which standard conditions would, but for this subsection, be incorporated in accordance with [subsection \(3\)](#) may exclude or modify any of those standard conditions, to such extent as the grantor may consider requisite to meet the circumstances of a particular case.
- (6) Before excluding any standard conditions or making any modifications under [subsection \(5\)](#), the grantor must give notice—

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- (a) stating that the grantor proposes to exclude the conditions or make the modifications and setting out the effect of so doing,
 - (b) stating the reasons why the grantor proposes to exclude the conditions or make the modifications, and
 - (c) specifying the time (which must not be less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed exclusions or modifications may be made,
- and must consider any representations or objections which are duly made and not withdrawn.
- (7) A notice under [subsection \(6\)](#) must be given—
- (a) by publishing the notice in whatever manner the grantor considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the exclusions or modifications, and
 - (b) by sending a copy of the notice to the appropriate devolved authorities (if any) and the Secretary of State.
- (8) The grantor must not exclude any conditions, or make any modifications, under [subsection \(5\)](#) unless the grantor is of the opinion that the exclusions or modifications are such that—
- (a) the licence holder would not be unduly disadvantaged in competing with other holders of licences, and
 - (b) no other holder of a licence would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence).
- (9) If, within the time specified in the notice under [subsection \(6\)](#), the Secretary of State (after consulting the appropriate devolved authorities (if any)) directs the grantor not to exclude or modify any standard condition, the grantor must comply with the direction.
- (10) The modification under [subsection \(5\)](#) of part of a standard condition does not prevent any other part of the condition from continuing to be treated as a standard condition for the purposes of this Part.
- (11) Where, in granting a licence, the grantor excludes or modifies any standard conditions under [subsection \(5\)](#), the grantor must publish a notice setting out—
- (a) each exclusion or modification,
 - (b) their effects, and the reason for adopting them, and
 - (c) how the grantor has taken account of any representations or objections made in accordance with [subsection \(6\)](#).
- (12) For the purposes of this section the “appropriate devolved authorities” are—
- (a) the Welsh Ministers, if provision making the exclusions and modifications proposed in the notice under [subsection \(6\)](#) would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
 - (b) the Scottish Ministers, if provision making the exclusions and modifications proposed in that notice would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (c) the Department for the Economy in Northern Ireland, if provision making the exclusions and modifications proposed in that notice—

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- (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
- (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.

Commencement Information

I12 S. 12 in force at 26.12.2023, see s. 334(3)(a)

13 Modification of conditions of licences

- (1) The economic regulator may make modifications of—
 - (a) the conditions of a particular licence;
 - (b) the standard conditions of licences.
- (2) Before making any modifications under this section, the economic regulator must give notice—
 - (a) stating that it proposes to make modifications,
 - (b) setting out the proposed modifications and their effect,
 - (c) stating the reasons why it proposes to make the modifications, and
 - (d) specifying the time within which representations with respect to the proposed modifications may be made.
- (3) The time specified by virtue of [subsection \(2\)\(d\)](#) may not be less than 28 days from the date of the publication of the notice.
- (4) A notice under [subsection \(2\)](#) must be given—
 - (a) by publishing the notice in such manner as the economic regulator considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications, and
 - (b) by sending a copy of the notice to—
 - (i) each relevant licence holder,
 - (ii) the Secretary of State, and
 - (iii) the appropriate devolved authorities (if any).
- (5) The economic regulator must consider any representations which are duly made.
- (6) If, within the time specified by virtue of [subsection \(2\)\(d\)](#), the Secretary of State directs the economic regulator not to make any modification, the economic regulator must comply with the direction.
- (7) [Subsections \(8\) to \(10\)](#) apply where, having complied with [subsections \(2\) to \(5\)](#), the economic regulator decides to proceed with the making of modifications of the conditions of any licence under this section.
- (8) The economic regulator must—
 - (a) publish the decision and the modifications in such manner as it considers appropriate for the purpose of bringing them to the attention of persons likely to be affected by the making of the modifications,
 - (b) state the effect of the modifications,

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- (c) state how it has taken account of any representations duly made, and
 - (d) state the reason for any differences between the modifications and those set out in the notice by virtue of [subsection \(2\)\(b\)](#).
- (9) Each modification has effect from the date specified by the economic regulator in relation to that modification (subject to the giving of a direction under [paragraph 2 of Schedule 2](#)).
- (10) The date specified by virtue of [subsection \(9\)](#) may not be less than 56 days from the publication of the decision to proceed with the making of modifications under this section.
- (11) In this section “relevant licence holder”—
- (a) in relation to the modification of standard conditions, means the holder of a licence—
 - (i) which is to be modified by the inclusion of any new standard condition, or
 - (ii) which includes any standard conditions to which the modifications relate which are in effect at the time specified by virtue of [subsection \(2\)\(d\)](#), or
 - (b) in relation to the modification of a condition of a particular licence (other than a standard condition), means the holder of that particular licence.
- (12) For the purposes of this section the “appropriate devolved authorities” are—
- (a) the Welsh Ministers, if provision making the modifications proposed in the notice under [subsection \(2\)](#) would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
 - (b) the Scottish Ministers, if provision making the modifications proposed in that notice would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (c) the Department for the Economy in Northern Ireland, if provision making the modifications proposed in that notice—
 - (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.

Commencement Information

113 [S. 13](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

14 Modification of conditions under [section 13](#): supplementary

- (1) Subsections (2) and (3) apply where at any time the economic regulator modifies the conditions of licences under [section 13](#).
- (2) If the conditions modified are standard conditions, the economic regulator must—

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- (a) also make (as nearly as possible) the same modifications of those conditions for the purposes of their incorporation in licences granted after that time, and
 - (b) publish the modifications in such manner as it considers appropriate for the purpose of bringing them to the attention of persons likely to be affected by the making of the modifications.
- (3) The economic regulator may make such incidental or consequential modifications of any conditions of licences as it considers necessary or expedient.
- (4) The modification of part of a standard condition of a particular licence under [section 13](#) does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.
- (5) The modification of a condition of a licence under this section has effect subject to the giving of a direction under [paragraph 2](#) of [Schedule 2](#) in relation to the decision to which the modification relates.

Commencement Information

I14 [S. 14](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

15 Modification by order under other enactments

- (1) Where the CMA or (as the case may be) the Secretary of State (in this section “the relevant authority”) makes a relevant order, the order may also provide for the modification of—
- (a) the conditions of a particular licence, or
 - (b) the standard conditions of licences,
- to such extent as may appear to the relevant authority to be necessary or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.
- (2) In [subsection \(1\)](#) “relevant order” means—
- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—
 - (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the carrying on of activities authorised or regulated by a licence, or
 - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the carrying on of activities authorised or regulated by a licence, or
 - (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market or markets in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to activities authorised or regulated by a licence.
- (3) The modification under [subsection \(1\)\(a\)](#) of part of a standard condition of a particular licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.
- (4) Where at any time the relevant authority modifies under [subsection \(1\)\(b\)](#) the standard conditions of licences, the relevant authority—

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- (a) must also make (as nearly as possible) the same modifications of those conditions for the purposes of their incorporation in licences granted after that time, and
 - (b) may, after consultation with the economic regulator, make such incidental or consequential modifications as the relevant authority considers necessary or expedient of any conditions of licences under that provision granted before that time.
- (5) Where at any time the relevant authority modifies standard conditions under [subsection \(4\)\(a\)](#) for the purposes of their incorporation in licences granted after that time, the relevant authority must publish those modifications in such manner as the relevant authority considers appropriate.
- (6) Expressions used in [subsection \(2\)](#) and in Part 3 or (as the case may be) Part 4 of the Enterprise Act 2002 have the same meanings in that subsection as in that Part.

Commencement Information

I15 [S. 15](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

Interim power of Secretary of State to grant licences

16 Interim power of Secretary of State to grant licences

[Schedule 1](#) makes provision about the power of the Secretary of State to grant licences during an interim period.

Commencement Information

I16 [S. 16](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

Termination of licence

17 Termination of licence

- (1) If the economic regulator considers that a termination event has arisen, or is likely to arise, the economic regulator must notify the persons mentioned in [subsection \(2\)](#) as soon as reasonably practicable.
- (2) Those persons are—
- (a) the Secretary of State;
 - (b) the Scottish Ministers, if an activity authorised by the licence is within Scottish devolved competence;
 - (c) the Welsh Ministers, if an activity authorised by the licence is within Welsh devolved competence;
 - (d) the Department for the Economy in Northern Ireland, if an activity authorised by the licence is within Northern Ireland devolved competence;
 - (e) the Oil and Gas Authority;

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- (f) any affected persons not falling within paragraphs (a) to (e) that the economic regulator considers appropriate.
- (3) A notice under [subsection \(1\)](#) must specify—
- (a) in a case where a termination event has arisen, the date on which the economic regulator proposes to revoke the licence, and
 - (b) in any case, the date by which any representations must be made.
- (4) For the purposes of this section an activity authorised by a licence—
- (a) is within Scottish devolved competence if provision about that activity would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (b) is within Welsh devolved competence if provision about that activity would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
 - (c) is within Northern Ireland devolved competence if provision about that activity—
 - (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.
- (5) In this section—
- “affected person” means a person that the economic regulator considers may be affected by the decision as to whether the licence should be terminated;
 - “termination event” means a state of affairs in which the economic regulator is authorised to revoke the licence.

Commencement Information

I17 [S. 17](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

Transfer of licences

18 Transfer of licences

- (1) A licence—
- (a) is to be capable of being transferred by the licence holder, with the consent of the economic regulator, in accordance with this section and subject to any term of the licence relating to its transfer;
 - (b) may include conditions which must be complied with before the licence can be transferred.
- (2) A transfer may relate to the whole or any part of the licence.
- (3) The reference in [subsection \(2\)](#) to part of a licence is a reference to a part of the activities authorised by the licence (whether described by reference to activities being

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carried on by the licence holder or to activities which the licence holder is authorised to carry on).

- (4) Such consent may be given subject to compliance with such modification conditions or other conditions as the economic regulator considers necessary or expedient.
- (5) In the case of a partial transfer, conditions imposed under [subsection \(4\)](#) may make, as respects so much of the licence as is proposed to be retained by the transferor, provision different from that made as respects so much of the licence as is proposed to be transferred.
- (6) Conditions imposed under [subsection \(4\)](#) may in particular require—
 - (a) the transfer of rights, liabilities or property to the transferee;
 - (b) the creation of rights in relation to property, rights or liabilities in favour of the transferee;
 - (c) the creation of other rights and liabilities as between the transferor and transferee.
- (7) A purported transfer of a licence is to be void—
 - (a) if the licence is not capable of transfer or the economic regulator has not given its consent under [section 19](#),
 - (b) if the purported transfer is in breach of a condition of the licence, or
 - (c) if there has, before the purported transfer, been a contravention of a condition subject to compliance with which the economic regulator’s consent is given.
- (8) In this section—

“modification condition” means a condition requiring, or otherwise providing for the making of, modifications to the conditions of a licence;

“transfer” includes any form of transfer or assignment or, in Scotland, assignation.

Commencement Information

I18 [S. 18](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

19 Consenting to transfer

- (1) Before giving consent to the transfer of a licence under [section 18\(1\)](#), the economic regulator must—
 - (a) publish a notice stating that it proposes to grant consent to the transfer,
 - (b) send a copy of the notice to—
 - (i) the Scottish Ministers, if an activity authorised by the licence is within Scottish devolved competence,
 - (ii) the Welsh Ministers, if an activity authorised by the licence is within Welsh devolved competence,
 - (iii) the Department for the Economy in Northern Ireland, if an activity authorised by the licence is within Northern Ireland devolved competence,
 - (iv) the Oil and Gas Authority, and
 - (v) such other persons as the economic regulator considers are likely to be affected by the decision, and

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- (c) consider any representations or objections that are duly made and not withdrawn.
- (2) Section 17(4) (activities authorised by a licence: devolved competence) applies for the purposes of subsection (1)(b) of this section as it applies for the purposes of section 17.
- (3) A notice under subsection (1) must—
- (a) state the reasons why the economic regulator proposes to give consent;
 - (b) specify any conditions the economic regulator proposes to impose under section 18(4);
 - (c) specify the time from the date of publication of the notice (which must not be less than two months) within which representations or objections with respect to the proposed transfer may be made,
- and must be published in such manner as the economic regulator considers appropriate for bringing it to the attention of persons likely to be affected by the transfer.
- (4) Subject to subsection (6), the economic regulator must, following consideration of any representations or objections under subsection (3), give the Secretary of State not less than 28 days' notice of—
- (a) any proposal to give consent to the transfer, and
 - (b) any conditions the economic regulator proposes to impose under section 18(4).
- (5) If, before the expiry of the time specified in a notice under subsection (4), the Secretary of State gives the economic regulator a direction not to consent to the transfer, the economic regulator must comply with that direction.
- (6) Where the Secretary of State gives no direction under subsection (5), the economic regulator may give consent to the transfer of the licence after—
- (a) the expiry of the time specified in the notice under subsection (4), or
 - (b) if earlier than the time in paragraph (a), the time at which the Secretary of State informs the economic regulator that in relation to the notice no direction will be given under subsection (5).

Commencement Information

I19 S. 19 in force at 26.12.2023, see s. 334(3)(a)

Appeal from decisions of the economic regulator

20 Appeal to the CMA

- (1) An appeal may be made to the CMA against a decision by the economic regulator to proceed with the modification of a condition of a licence under section 13.
- (2) An appeal may be brought under this section only by—
 - (a) a relevant licence holder (within the meaning of section 13);
 - (b) a transport and storage network user whose interests are materially affected by the decision;
 - (c) a qualifying body or association in the capacity of representing a person falling within paragraph (a) or (b);

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- (3) The permission of the CMA is required for the bringing of an appeal under this section.
- (4) The CMA may refuse permission to bring an appeal only on one of the following grounds—
 - (a) in relation to an appeal brought by a person falling within [subsection \(2\)\(b\)](#), that the interests of the person are not materially affected by the decision;
 - (b) in relation to an appeal brought by a qualifying body or association, that the interests of the person represented are not materially affected by the decision;
 - (c) in relation to any appeal—
 - (i) that the appeal is brought for reasons that are trivial or vexatious;
 - (ii) that the appeal has no reasonable prospect of success.
- (5) References in this section to a “qualifying body or association” are to a body or association whose functions are or include representing persons in respect of interests of theirs which are materially affected by the decision in question.
- (6) In this section “transport and storage network user” has the same meaning as in [section 1](#).

Commencement Information

I20 [S. 20](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

21 Procedure on appeal to CMA

- (1) [Schedule 2](#) has effect.
- (2) Except where specified otherwise in [Schedule 2](#), the functions of the CMA with respect to an appeal under [section 20](#) are to be carried out on behalf of the CMA by a group constituted for the purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

Commencement Information

I21 [S. 21](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

22 Determination by CMA of appeal

- (1) This section applies to every appeal brought under [section 20](#).
- (2) In determining an appeal the CMA must have regard, to the same extent as is required of the economic regulator, to the matters to which the economic regulator must have regard—
 - (a) in the carrying out of its principal objectives under [section 1](#), and
 - (b) in the performance of its duties under that section.
- (3) In determining the appeal the CMA—
 - (a) may have regard to any matter to which the economic regulator was not able to have regard in relation to the decision which is the subject of the appeal, but

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- (b) must not, in the exercise of that power, have regard to any matter to which the economic regulator would not have been entitled to have regard in reaching its decision had it had the opportunity of doing so.
- (4) The CMA may allow the appeal only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds—
 - (a) that the economic regulator failed properly to have regard to any matter mentioned in [subsection \(2\)](#);
 - (b) that the economic regulator failed to give the appropriate weight to any matter mentioned in [subsection \(2\)](#);
 - (c) that the decision was based, wholly or partly, on an error of fact;
 - (d) that the modifications fail to achieve, in whole or in part, the effect stated by the economic regulator by virtue of [section 13\(8\)\(b\)](#);
 - (e) that the decision was wrong in law.
- (5) To the extent that the CMA does not allow the appeal, it must confirm the decision appealed against.

Commencement Information

I22 [S. 22](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

23 CMA’s powers on allowing appeal

- (1) This section applies where the CMA allows an appeal to any extent.
- (2) If the appeal is in relation to a price control decision, the CMA must do one or more of the following—
 - (a) quash the decision (to the extent that the appeal is allowed);
 - (b) remit the matter back to the economic regulator for reconsideration and determination in accordance with any directions given by the CMA;
 - (c) substitute the CMA’s decision for that of the economic regulator (to the extent that the appeal is allowed) and give any directions to the economic regulator or any other party to the appeal.
- (3) If the appeal is in relation to any other decision, the CMA must do one or both of the following—
 - (a) quash the decision (to the extent that the appeal is allowed);
 - (b) remit the matter back to the economic regulator for reconsideration and determination in accordance with any directions given by the CMA.
- (4) A direction under [subsection \(2\)](#) or (3) must not require a person to do anything that the person would not have power to do (apart from the direction).
- (5) A person to whom a direction is given under that subsection must comply with it.
- (6) A direction given under that subsection to a person other than the economic regulator is enforceable as if it were an order of the High Court or (in Scotland) an order of the Court of Session.
- (7) For the purposes of this section a decision is a “price control decision”, in relation to the modification of a condition of a licence, if the purpose of the condition is, in

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the CMA’s opinion, to limit or control the charges on, or the revenue of, the holder of the licence.

- (8) In determining for the purposes of [subsection \(7\)](#) what the purpose of a condition is, the condition may be assessed on its own or in combination with any other conditions of the licence.
- (9) In this section and [section 24](#) any reference to a party to an appeal is to be read in accordance with [Schedule 2](#).

Commencement Information

I23 [S. 23](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

24 Time limits for CMA to determine an appeal

- (1) The CMA must—
 - (a) determine an appeal against a price control decision within the period of 6 months beginning with the permission date;
 - (b) determine an appeal against any other decision within the period of 4 months beginning with the permission date.
- (2) Subsection (1)(a) or (b) does not apply if [subsection \(3\)](#) applies.
- (3) This subsection applies where—
 - (a) the CMA has received representations on the timing of the determination from a party to the appeal, and
 - (b) it is satisfied that there are special reasons why the determination cannot be made within the period specified in subsection (1)(a) or (b).
- (4) Where [subsection \(3\)](#) applies, the CMA must—
 - (a) determine an appeal against a price control decision within the period specified by it, which must not be longer than the period of 7 months beginning with the permission date;
 - (b) determine an appeal against any other decision within the period specified by it, which must not be longer than the period of 5 months beginning with the permission date.
- (5) Where [subsection \(3\)](#) applies, the CMA must also—
 - (a) inform the parties to the appeal of the time limit for determining the appeal, and
 - (b) publish that time limit in such manner as it considers appropriate for the purpose of bringing it to the attention of any other persons likely to be affected by the determination.
- (6) In this section “price control decision” is to be read in accordance with [section 23](#).
- (7) References in this section to the “permission date” are to the date on which the CMA gave permission to bring the appeal in accordance with [section 20\(3\)](#).

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Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Chapter 1. (See end of Document for details)

Commencement Information

I24 S. 24 in force at 26.12.2023, see s. 334(3)(a)

25 Determination of appeal by CMA: supplementary

- (1) A determination by the CMA on an appeal—
 - (a) must be contained in an order made by the CMA;
 - (b) must set out the reasons for the determination;
 - (c) takes effect at the time—
 - (i) specified in the order, or
 - (ii) determined in accordance with provision made in the order;
 - (d) must be notified by the CMA to the parties to the appeal;
 - (e) must be published by the CMA—
 - (i) as soon as reasonably practicable after the determination is made;
 - (ii) in such manner as the CMA considers appropriate for the purpose of bringing the determination to the attention of any person likely to be affected by it (other than a party to the appeal).
- (2) The CMA may exclude from publication under subsection (1)(e) any information which it is satisfied is—
 - (a) commercial information, the disclosure of which would, or might in the CMA’s opinion, significantly harm the legitimate business interests of an undertaking to which it relates, or
 - (b) information relating to the private affairs of an individual, the disclosure of which would, or might in the CMA’s opinion, significantly harm the individual’s interests.
- (3) The economic regulator must take such steps as it considers necessary for it to comply with an order of the CMA made by virtue of [subsection \(1\)\(a\)](#).
- (4) The steps must be taken—
 - (a) if a time is specified in (or is to be determined in accordance with) the order, within that time;
 - (b) in any other case, within a reasonable time.
- (5) Subsections (2) to (4) of [section 14](#) (consequences of modification of standard conditions) apply where a condition of a licence is modified in accordance with [section 23](#) as they apply where a condition of a licence is modified under [section 13](#).

Commencement Information

I25 S. 25 in force at 26.12.2023, see s. 334(3)(a)

Status: Point in time view as at 26/12/2023.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Chapter 1. (See end of Document for details)

Information

26 Provision of information to or by the economic regulator

- (1) The economic regulator may provide to a person within [subsection \(2\)](#) such information as the economic regulator considers necessary in connection with the exercise by the economic regulator of its functions relating to the regulation of licensable activities.
- (2) The persons within this subsection are—
 - (a) the Oil and Gas Authority;
 - (b) the Environment Agency;
 - (c) the Scottish Environment Protection Agency;
 - (d) Natural Resources Wales;
 - (e) the Health and Safety Executive;
 - (f) the Health and Safety Executive for Northern Ireland;
 - (g) the CMA;
 - (h) the Scottish Ministers;
 - (i) the Welsh Ministers;
 - (j) the Department for the Economy in Northern Ireland;
 - (k) the Northern Ireland Environment Agency;
 - (l) the Secretary of State;
 - (m) any other person the economic regulator considers appropriate who has powers or duties conferred by or by virtue of primary legislation which the economic regulator considers relevant to the exercise of the economic regulator’s functions relating to the regulation of licensable activities.
- (3) The economic regulator may by notice request from a person within [subsection \(2\)](#) such information as the economic regulator considers necessary in connection with the exercise by the economic regulator of its functions relating to the regulation of licensable activities.
- (4) A person to whom a request is made under [subsection \(3\)](#) must, so far as reasonably practicable, provide the requested information within such period, and in such form and manner, as may be specified in the notice.
- (5) Except as provided by [subsection \(6\)](#), the disclosure of information under this section does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (6) This section does not authorise or require a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, the power conferred by [subsection \(1\)](#) or, as the case may be, the duty under [subsection \(4\)](#) is to be taken into account).
- (7) In this section “primary legislation” means—
 - (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) an Act or Measure of Senedd Cymru, or
 - (d) Northern Ireland legislation.

Status: Point in time view as at 26/12/2023.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Chapter 1. (See end of Document for details)

Commencement Information

I26 S. 26 in force at 26.12.2023, see s. 334(3)(a)

27 Power of Secretary of State to require information

- (1) The Secretary of State may by notice in writing require a licence holder to provide the Secretary of State with information which is reasonably required by the Secretary of State for the purposes of the Secretary of State's functions under this Part.
- (2) A notice under [subsection \(1\)](#) must specify—
 - (a) the form and manner in which information is to be provided, and
 - (b) the time within which it is to be provided.
- (3) A licence holder may not be required under this section to provide any information that would be protected from disclosure or production in legal proceedings on grounds of legal professional privilege or, in Scotland, confidentiality of communications.
- (4) Except as provided by [subsection \(5\)](#), the disclosure of information under this section does not breach—
 - (a) any obligation of confidence owed by the licence holder making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (5) This section does not authorise or require a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, a requirement imposed under [subsection \(1\)](#) is to be taken into account).

Commencement Information

I27 S. 27 in force at 26.12.2023, see s. 334(3)(a)

Other functions of the economic regulator

28 Monitoring, information gathering etc

- (1) The economic regulator must keep under review the carrying on in the United Kingdom and elsewhere of the following activities—
 - (a) operating a site for the disposal of carbon dioxide by way of geological storage;
 - (b) providing a service of transporting carbon dioxide by a licensable means of transportation;
 - (c) activities ancillary to activities mentioned in paragraph (a) or (b).
- (2) The economic regulator may, for the purpose of facilitating the performance of its functions under this Part, collect information with respect to such activities.
- (3) The economic regulator must give the Secretary of State or the CMA any information they may request with respect to any matter relating to the economic regulator's functions under this Part.

Status: Point in time view as at 26/12/2023.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Chapter 1. (See end of Document for details)

Commencement Information

I28 S. 28 in force at 26.12.2023, see s. 334(3)(a)

29 Power to require information for purposes of monitoring

- (1) The economic regulator may, for the purpose of exercising its functions under subsections (1) and (2) of [section 28](#), serve a notice under [subsection \(2\)](#) on any licence holder.
- (2) A notice under this subsection is a notice which—
 - (a) requires the person on whom it is served to produce, at a time and place specified in the notice, to the economic regulator any documents which are specified or described in the notice and are in that person’s custody or under their control, or
 - (b) requires that person, if they are carrying on a business, to provide to the economic regulator in the form and manner, and within the period, specified in the notice, the information specified or described in the notice.
- (3) In paragraphs (a) and (b) of [subsection \(2\)](#) the reference to the economic regulator includes a person appointed by the economic regulator for the purpose of exercising the function in question.
- (4) A person who intentionally alters, suppresses or destroys any document or record of information which that person has been required to produce by a notice under [subsection \(2\)](#) is guilty of an offence liable—
 - (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum;
 - (c) on conviction on indictment, to a fine.
- (5) Except as provided by [subsection \(6\)](#), the disclosure of information under this section does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (6) This section does not authorise or require a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, a requirement imposed by virtue of [subsection \(2\)](#) is to be taken into account).

Commencement Information

I29 S. 29 in force at 26.12.2023, see s. 334(3)(a)

30 Duty to carry out impact assessment

- (1) This section applies where—
 - (a) the economic regulator is proposing to do anything for the purposes of, or in connection with, the carrying out of any function exercisable by it under or by virtue of this Part, and

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- (b) it appears to the economic regulator that the proposal is important; but this section does not apply if it appears to the economic regulator that the urgency of the matter makes it impracticable or inappropriate for the economic regulator to comply with the requirements of this section.
- (2) A proposal is important for the purposes of this section only if its implementation would be likely to do one or more of the following—
- (a) involve a major change in the activities carried on by the economic regulator;
 - (b) have a significant impact on persons engaged in the capture, transportation or storage of carbon dioxide;
 - (c) have a significant impact on persons engaged in commercial activities connected with the capture, transportation or storage of carbon dioxide;
 - (d) have a significant impact on the general public in the United Kingdom or in a part of the United Kingdom;
 - (e) have significant effects on the environment.
- (3) Before implementing its proposal, the economic regulator must either—
- (a) carry out and publish an assessment of the likely impact of implementing the proposal, or
 - (b) publish a statement setting out its reasons for thinking that it is unnecessary for it to carry out an assessment.
- (4) An assessment carried out under this section must—
- (a) include an assessment of the likely effects on the environment of implementing the proposal, and
 - (b) relate to such other matters as the economic regulator considers appropriate.
- (5) In determining the matters to which an assessment under this section should relate, the economic regulator must have regard to such general guidance relating to the carrying out of impact assessments as it considers appropriate.
- (6) An assessment carried out under this section may take such form as the economic regulator considers appropriate.
- (7) Where the economic regulator publishes an assessment under this section—
- (a) it must provide an opportunity of making representations to the economic regulator about its proposal to members of the public and other persons who, in the economic regulator’s opinion, are likely to be affected to a significant extent by the proposal’s implementation,
 - (b) the published assessment must be accompanied by a statement setting out how representations may be made, and
 - (c) the economic regulator must not implement its proposal unless the period for making representations about the proposal has expired and it has considered all the representations that were made in that period.
- (8) Where the economic regulator is required (apart from this section)—
- (a) to consult about a proposal to which this section applies, or
 - (b) to give a person an opportunity of making representations about it,
- the requirements of this section are in addition to, but may be performed contemporaneously with, the other requirements.

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Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Chapter 1. (See end of Document for details)

- (9) Every report under [section 41](#) (annual reports on transport and storage licensing functions) must set out—
 - (a) a list of the assessments under this section carried out during the financial year to which the report relates, and
 - (b) a summary of the decisions taken during that year in relation to proposals to which assessments carried out in that year or previous financial years relate.
- (10) The publication of anything under this section must be in such manner as the economic regulator considers appropriate for bringing it to the attention of the persons who, in the economic regulator’s opinion, are likely to be affected if its proposal is implemented.

Commencement Information

I30 [S. 30](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

31 Reasons for decisions

- (1) This section applies to the following decisions of the economic regulator or the Secretary of State—
 - (a) the revocation of a licence;
 - (b) the modification of the conditions of a licence;
 - (c) the giving of any directions or consent in pursuance of a condition included in a licence by virtue of [section 11\(2\)\(a\)](#) or [\(c\)](#);
 - (d) the determination of a question referred in pursuance of a condition included in a licence by virtue of [section 11\(2\)\(d\)](#);
 - (e) the making of a final order, the making or confirmation of a provisional order or the revocation of a final order or of a provisional order which has been confirmed.
- (2) As soon as reasonably practicable after making such a decision the economic regulator or the Secretary of State (“the decision maker”) must—
 - (a) publish a notice stating the reasons for the decision in such manner as the decision maker considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be interested, and
 - (b) send a copy of the notice to the licence holder to whose licence, or to whom, the decision relates.
- (3) In preparing a notice under [subsection \(2\)](#) the decision maker must have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where the decision maker considers that publication of that matter would or might seriously and prejudicially affect the interests of that individual or body.
- (4) In this Part “final order” and “provisional order” have the same meaning as in [Schedule 3](#) (see [paragraph 1\(12\)](#) of that Schedule).

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Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Chapter 1. (See end of Document for details)

Commencement Information

I31 S. 31 in force at 26.12.2023, see s. 334(3)(a)

Enforcement

32 Enforcement of obligations of licence holders

[Schedule 3](#) makes provision for the enforcement of conditions of licences and of other requirements imposed on licence holders by or under this Part.

Commencement Information

I32 S. 32 in force at 26.12.2023, see s. 334(3)(a)

False statements

33 Making of false statements etc

- (1) A person who, in giving any information or making any application for the purposes of any provision of this Part, or of any regulation made under any provision of this Part, makes any statement which the person knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and liable—
 - (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum;
 - (c) on conviction on indictment, to a fine.
- (2) Proceedings for an offence under [subsection \(1\)](#) must not in England and Wales be instituted except by or with the consent of the Secretary of State or the Director of Public Prosecutions.
- (3) Proceedings for an offence under [subsection \(1\)](#) must not in Northern Ireland be instituted except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

Commencement Information

I33 S. 33 in force at 26.12.2023, see s. 334(3)(a)

Criminal liability and procedure

34 Liability of officers of entities

- (1) Where an offence under this Part committed by a body corporate is proved—
 - (a) to have been committed with the consent or connivance of an officer of the body corporate, or

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- (b) to be attributable to neglect on the part of an officer of the body corporate, that officer (as well as the body corporate) commits the offence and is liable to be proceeded against and dealt with accordingly.
- (2) In subsection (1) “officer”, in relation to a body corporate, means—
- (a) any director, manager, secretary or other similar officer of the body corporate, or
- (b) any person purporting to act in any such capacity.
- (3) In subsection (2) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (4) Where an offence under this Part is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, or to be attributable to any neglect on the part of a partner, that partner (as well as the partnership) commits the offence and is liable to be proceeded against and dealt with accordingly.

Commencement Information

I34 S. 34 in force at 26.12.2023, see s. 334(3)(a)

35 Criminal proceedings

- (1) Proceedings for an offence under this Part may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.
- (2) Section 3 of the Territorial Waters Jurisdiction Act 1878 (restriction on prosecutions) does not apply to any proceedings for an offence under this Part.
- (3) Proceedings for an offence under this Part alleged to have been committed in an offshore place may not be instituted in England and Wales except—
- (a) by the Secretary of State or a person authorised by the Secretary of State, or
- (b) by or with the consent of the Director of Public Prosecutions.
- (4) Proceedings for an offence under this Part alleged to have been committed in an offshore place may not be instituted in Northern Ireland except—
- (a) by the Secretary of State or a person authorised by the Secretary of State, or
- (b) by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (5) In this section “offshore place” means a place in, under or over—
- (a) the territorial sea adjacent to the United Kingdom, or
- (b) waters in a Gas Importation and Storage Zone (within the meaning given by section 1 of the Energy Act 2008).

Commencement Information

I35 S. 35 in force at 26.12.2023, see s. 334(3)(a)

Status:

Point in time view as at 26/12/2023.

Changes to legislation:

There are currently no known outstanding effects for the Energy Act 2023, Chapter 1.