



Energy Act 2023

2023 CHAPTER 52

PART 1

LICENSING OF CARBON DIOXIDE TRANSPORT AND STORAGE

CHAPTER 1

LICENSING OF ACTIVITIES

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—
 - (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.
- (3) In this Part “licensable means of transportation” means—
 - (a) a pipe or system of pipes, or
 - (b) 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—

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- (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.
- (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—
- (a) amendments (or repeals or revocations) in any provision of this Act or any other enactment, and
 - (b) 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.
- (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.

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

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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 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—
 - (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.

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.

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—

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- (a) by serving a copy of it on the economic regulator and any appropriate devolved authority, and
 - (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.

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—
 - (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

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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.