



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

- (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\(1\)](#).

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—
- (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;

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- (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
 - (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—

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- (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—
 - (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—

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- (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,

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- (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 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.

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\(2\)\(b\)](#).

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- (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.

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
 - (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

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(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.

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—

- (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;

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- (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.
- (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.

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;
 - (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.

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(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.

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

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- 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.
- (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.

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.

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,
 - (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 \(2\)\(b\)](#).

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- (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.

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—
 - (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.

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—
 - (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.

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- (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.

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.

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;
 - (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

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(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.

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 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;

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

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
 - (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

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- (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 \(5\)](#).

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 [\(b\)](#);
- (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](#).

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.

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—

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- (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
 - (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.

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 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](#).

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\(3\)](#).

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;

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- (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](#).

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;

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- (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.

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).

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- (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).

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.

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).

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
 - (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—

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- (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.
- (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.

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).

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.

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.

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
 - (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—

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- (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.

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).

CHAPTER 2

FUNCTIONS WITH RESPECT TO COMPETITION

36 Functions under the Enterprise Act 2002

- (1) The functions to which [subsection \(2\)](#) applies are to be concurrent functions of the economic regulator and the CMA.
- (2) This subsection applies to the functions of the CMA under Part 4 of the Enterprise Act 2002 (other than sections 166, 171 and 174E) so far as those functions are exercisable by the CMA Board (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013) and relate to commercial activities connected with relevant storage and transport activities.

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- (3) So far as necessary for the purposes of, or in connection with, subsections (1) and (2)—
- (a) references in Part 4 of the Enterprise Act 2002 to the CMA (including references in provisions of that Act applied by that Part) are to be construed as including references to the economic regulator (except in sections 166, 171 and 174E of that Act and in any other provision of that Act where the context otherwise requires);
 - (b) references in that Part to section 5 of that Act are to be construed as including references to [section 28\(1\)](#) and (2) of this Act.
- (4) Section 130A of the Enterprise Act 2002 is to have effect in its application in relation to the economic regulator by virtue of subsections (1) and (2)—
- (a) as if for subsection (1) of that section there were substituted—
 - “(1) Where the Gas and Electricity Markets Authority—
 - (a) is proposing to carry out its functions under [section 28\(1\)](#) or (2) of the Energy Act 2023 in relation to a matter for the purposes mentioned in subsection (2), and
 - (b) considers that the matter is one in respect of which it would be appropriate for the Gas and Electricity Markets Authority to exercise its powers under section 174 (investigation) in connection with deciding whether to make a reference under section 131,the Gas and Electricity Markets Authority must publish a notice under this section (referred to in this Part as a “market study notice”).”, and
 - (b) as if in subsection (2)(a) of that section, for “the acquisition or supply of goods or services of one or more than one description in the United Kingdom” there were substituted “commercial activities connected with activities to which [section 36\(2\)](#) of the Energy Act 2023 applies”.
- (5) It is to be the duty of the economic regulator, for the purpose of assisting a CMA group in carrying out an investigation on a market investigation reference made by the economic regulator (under section 131 of the Enterprise Act 2002) by virtue of [subsection \(1\)](#), to give to the group—
- (a) any information which is in the economic regulator’s possession and which relates to matters falling within the scope of the investigation and—
 - (i) is requested by the group for that purpose, or
 - (ii) is information which, in the economic regulator’s opinion, it would be appropriate for that purpose to give to the group without any such request, and
 - (b) any other assistance which the group may require and which it is within the economic regulator’s power to give, in relation to any such matters,
- and the group must, for the purposes of carrying out any such investigation, take into account any information given to them for that purpose under this subsection.
- (6) In [subsection \(5\)](#) “CMA group” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

37 Functions under the Competition Act 1998

- (1) The economic regulator is to be entitled to exercise, concurrently with the CMA, the functions of the CMA under the provisions of Part 1 of the Competition Act 1998

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(other than sections 31D(1) to (6), 38(1) to (6), 40B(1) to (4) and 51), so far as relating to—

(a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act, or

(b) conduct of the kind mentioned in section 18(1) of that Act, or
 which relate to the carrying on of relevant transport and storage activities.

(2) So far as necessary for the purposes of, or in connection with, the provisions of [subsection \(1\)](#), references in Part 1 of the Competition Act 1998 to the CMA are to be read as including a reference to the economic regulator (except in sections 31D(1) to (6), 38(1) to (6), 40B(1) to (4), 51, 52(6) and (8) and 54 of that Act and in any other provision of that Act where the context otherwise requires).

38 Sections 36 and 37: supplementary

(1) Before the CMA or the economic regulator first exercises in relation to any matter functions which are exercisable concurrently by virtue of [section 36\(1\)](#) or [37\(1\)](#), it must consult the other.

(2) Neither the CMA nor the economic regulator is to exercise in relation to any matter functions which are exercisable concurrently by virtue of [section 36\(1\)](#) or [37\(1\)](#) if functions which are so exercisable have been exercised in relation to that matter by the other.

(3) If any question arises as to whether [section 36\(1\)](#) or [37\(1\)](#) applies to any particular case, that question is to be referred to and determined by the Secretary of State, and no objection may be taken to anything done under—

(a) Part 4 of the Enterprise Act 2002, or

(b) Part 1 of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6), 40B(1) to (4) and 51),

by or in relation to the economic regulator on the ground that it should have been done by or in relation to the CMA.

(4) In sections [36](#) and [37](#) “relevant storage and transport activities” means—

(a) activities such as are mentioned in [section 2\(2\)](#), and

(b) activities ancillary to such activities.

CHAPTER 3

REPORTING REQUIREMENTS

39 Forward work programmes

(1) The economic regulator must, before each financial year, publish a document (the “transport and storage forward work programme”) containing a general description of the relevant projects, other than those comprising routine activities in the exercise of its functions, which it plans to undertake during the year.

(2) That description must include the objectives of each relevant project.

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- (3) The forward work programme for any year must also include an estimate of the overall expenditure which the economic regulator expects to incur during the year in the exercise of its relevant functions.
- (4) Before publishing the forward work programme for any year, the economic regulator must give notice—
 - (a) containing a draft of the transport and storage forward work programme, and
 - (b) specifying the time within which representations or objections to the proposals contained in it may be made,and must consider any representations or objections which are duly made and not withdrawn.
- (5) The notice under [subsection \(4\)](#) must be published by the economic regulator in such manner as it considers appropriate for the purpose of bringing the matters contained in it to the attention of persons likely to be affected by them.
- (6) The economic regulator must send a copy of any notice given by it under [subsection \(4\)](#) to—
 - (a) the Welsh Ministers,
 - (b) the Scottish Ministers, and
 - (c) the Department for the Economy in Northern Ireland.
- (7) In this section—
 - “relevant functions” means functions of the economic regulator under this Part;
 - “relevant project” means a project relating to the economic regulator’s functions under this Part.

40 Information in relation to CCUS strategy and policy statement

- (1) As soon as reasonably practicable after the designation of a statement as the CCUS strategy and policy statement for the purposes of this Part, the economic regulator must publish a document setting out the required information in relation to the statement.
- (2) The economic regulator must include the required information in relation to a CCUS strategy and policy statement in the transport and storage forward work programme for each financial year, subject to making such modifications to the information as the economic regulator considers appropriate from the version as last published under this subsection.
- (3) The required information in relation to a CCUS strategy and policy statement to be set out in a document or forward work programme is—
 - (a) the strategy the economic regulator intends to adopt for the purpose of furthering the delivery of the policy outcomes contained in the statement (both in respect of the year in or for which the document or programme is issued and beyond);
 - (b) the things the economic regulator proposes to do in implementing that strategy (including when the economic regulator proposes to do them);
 - (c) the ways in which the economic regulator has had regard to the strategic priorities contained in the statement in setting out the information required under paragraphs (a) and (b).

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- (4) The duty under [subsection \(1\)](#) does not apply if—
- (a) the economic regulator does not think it reasonably practicable to publish the document mentioned in that subsection before the time when the economic regulator is next required to publish a transport and storage forward work programme, and
 - (b) the economic regulator includes the required information in that forward work programme.
- (5) The duty under [subsection \(2\)](#) does not apply in relation to the first financial year beginning after the designation of the statement if—
- (a) the economic regulator does not think it reasonably practicable to include the required information in the transport and storage forward work programme for that year, and
 - (b) the economic regulator includes the required information in a document published under [subsection \(1\)](#).
- (6) The duty under [subsection \(2\)](#) does not apply in relation to a financial year if the Secretary of State gives notice to the economic regulator under this subsection that the statement’s designation—
- (a) will be withdrawn before the beginning of the year, or
 - (b) is expected to have been withdrawn before the beginning of the year.
- (7) Subsections (4) and (5) of [section 39](#) (notice requirements) apply to a document published under [subsection \(1\)](#) as they apply to a transport and storage forward work programme.
- (8) In this section—
- “CCUS strategy and policy statement”, “policy outcomes” and “strategic priorities” have the same meaning as in [Chapter 3](#) of [Part 2](#) (see [section 99](#));
 - “designation”, in relation to a CCUS strategy and policy statement, means designation of the statement by the Secretary of State under [section 99](#);
 - “transport and storage forward work programme” has the meaning given by [section 39](#).

41 Annual report on transport and storage licensing functions

- (1) The economic regulator must, as soon as practicable after the end of each financial year, make to the Secretary of State a report (the “annual T&S report” for that year) on—
- (a) the exercise of its functions under this Part during that year including a general survey of developments in respect of matters falling within the scope of those functions, and
 - (b) the activities of the CMA during that year in respect of any references made by the economic regulator by virtue of [section 36\(1\)](#).
- (2) The annual T&S report for each year must include—
- (a) a report on the progress of the projects described in the transport and storage forward work programme for that year;
 - (b) a summary of final and provisional orders made and penalties imposed by the economic regulator during the year;

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- (c) a report on such other matters as the Secretary of State may from time to time require.
- (3) The annual T&S report for each year must also include a report on—
- (a) the ways in which the economic regulator has carried out its duties under [section 100\(1\)](#) in relation to the CCUS strategy and policy statement (so far as the statement’s designation was in effect during the whole or any part of the year), and
 - (b) the extent to which the economic regulator has done the things set out under [section 40](#) in a transport and storage forward work programme or other document as the things the economic regulator proposed to do during that year in implementing its strategy for furthering the delivery of the policy outcomes contained in the statement (see [subsection \(3\)\(b\)](#) of that section).
- (4) The report mentioned in [subsection \(3\)](#) must, in particular, include—
- (a) the economic regulator’s assessment of how the carrying out of its functions under this Part during the year has contributed to the delivery of the policy outcomes contained in the CCUS strategy and policy statement, and
 - (b) if the economic regulator has failed to do any of the things mentioned in [subsection \(3\)\(b\)](#), an explanation for the failure and the actions the economic regulator proposes to take to remedy it.
- (5) In [subsections \(3\)](#) and [\(4\)](#)—
- “CCUS strategy and policy statement” and “policy outcomes” have the same meaning as in [Chapter 3 of Part 2](#) (see [section 99](#));
 - “transport and storage forward work programme” has the meaning given by [section 39\(1\)](#).
- (6) The Secretary of State must consult the economic regulator before exercising the power under [subsection \(2\)\(c\)](#) in relation to any matter.
- (7) The Secretary of State must—
- (a) lay a copy of each annual T&S report before each House of Parliament,
 - (b) send a copy of the report to the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland, and
 - (c) arrange for the report to be published in such manner as the Secretary of State considers appropriate.
- (8) The Scottish Ministers must lay a copy of each annual T&S report before the Scottish Parliament.
- (9) The Welsh Ministers must lay a copy of each annual T&S report before Senedd Cymru.
- (10) The Department for the Economy in Northern Ireland must lay a copy of each annual T&S report before the Northern Ireland Assembly.
- (11) In making or preparing any report under this section the economic regulator must have regard to the need for excluding, so far as practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where publication of that matter would or might, in the opinion of the economic regulator, seriously and prejudicially affect the interests of that individual or body.

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CHAPTER 4

SPECIAL ADMINISTRATION REGIME

Transport and storage administration orders

42 Transport and storage administration orders

- (1) A transport and storage administration order means an order which—
 - (a) is made by the court in relation to a company which holds a licence under section 7, and
 - (b) directs that, while the order is in force, the affairs, business and property of the company are to be managed by a person appointed by the court.
- (2) In this Chapter—
 - (a) a transport and storage administration order is referred to as a T&S administration order,
 - (b) a company which holds a licence under [section 7](#) is referred to as a T&S company, and
 - (c) the person appointed in relation to a T&S company for the purposes of a T&S administration order is referred to as the T&S administrator of the company.
- (3) The T&S administrator of a company must manage the company’s affairs, business and property, and exercise and perform all the powers and duties of a T&S administrator, so as to achieve the objective set out in [section 43](#).
- (4) In relation to a T&S administration order applying to a non-GB company, references in this section to the affairs, business and property of the company are references only—
 - (a) to its affairs and business so far as carried on in Great Britain or a relevant controlled place, and
 - (b) to its property in Great Britain or a relevant controlled place.
- (5) In this section, “relevant controlled place” means a controlled place within the meaning of section 17(3) to (4) of the Energy Act 2008 other than a place—
 - (a) in Great Britain,
 - (b) in Northern Ireland, or
 - (c) in, under or over so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Northern Ireland.

43 Objective of a transport and storage administration

- (1) The objective of a transport and storage administration is to secure—
 - (a) that the activities authorised by the licence of the T&S company to which the administration relates commence, or continue, in a manner which—
 - (i) is efficient and economical, and
 - (ii) ensures the safety and security of the transport and storage network, or the part of that network, to which the licence relates, and
 - (b) that it becomes unnecessary, by one or both of the following means, for the T&S administration order to remain in force for that purpose.
- (2) Those means are—

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- (a) the rescue as a going concern of the company subject to the T&S administration order, and
 - (b) transfers falling within subsection (3).
- (3) A transfer falls within this subsection if it is a transfer as a going concern—
 - (a) to another company, or
 - (b) as respects different parts of the undertaking of the company subject to the T&S administration order, to two or more different companies,of so much of that undertaking as it is appropriate to transfer for the purpose of achieving the objective of the transport and storage administration.
- (4) The means by which transfers falling within subsection (3) may be effected include, in particular—
 - (a) a transfer of the undertaking of the company subject to the T&S administration order, or of a part of its undertaking, to a wholly-owned subsidiary of that company, and
 - (b) a transfer to a company of securities of a wholly-owned subsidiary to which there has been a transfer falling within paragraph (a).
- (5) The objective of a transport and storage administration may be achieved by a transfer falling within subsection (3) to the extent only that—
 - (a) the rescue as a going concern of the company subject to the T&S administration order is not reasonably practicable or is not reasonably practicable without such a transfer,
 - (b) the rescue of that company as a going concern will not achieve that objective or will not do so without such a transfer,
 - (c) such a transfer would produce a result for the company’s creditors as a whole that is better than the result that would be produced without it, or
 - (d) such a transfer would, without prejudicing the interests of those creditors as a whole, produce a result for the company’s members as a whole that is better than the result that would be produced without it.
- (6) In subsection (1)(a)—
 - (a) the reference to the activities authorised by the licence of the T&S company to which the administration relates includes a reference to any construction work or other activities needing to be carried out to commence those activities, and
 - (b) the reference to the safety and security of the transport and storage network, or the part of that network, to which the licence relates includes a reference to the safety and security of any infrastructure and facilities being constructed for that network, or that part of that network.

Application and amendment of the Energy Act 2004

44 Application of certain provisions of the Energy Act 2004

- (1) Sections 156 to 167 of, and Schedules 20 and 21 to, the Energy Act 2004 (special administration regime for energy licensees) apply in relation to a T&S administration order as they apply in relation to an energy administration order within the meaning given by section 154(1) of that Act, but with the modifications set out in subsections (2) to (4).
- (2) In the application of those provisions generally—

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- (a) for “energy administration”, in each place where it occurs, substitute “transport and storage administration”;
 - (b) for “energy administrator”, in each place where it occurs, substitute “T&S administrator”;
 - (c) for “Great Britain”, in each place it occurs (other than paragraphs 4(2)(e) and 11(4) and (7) of Schedule 21), substitute “Great Britain or a relevant controlled place”;
 - (d) for “a protected energy company”, in each place where it occurs, substitute “a T&S company”.
- (3) In the application of Schedule 20—
- (a) in paragraph 32(1)(d), for the words from ““energy administration application”” to “Energy Act 2004” substitute ““transport and storage administration application” means an application to the court for a transport and storage administration order under Chapter 3 of Part 3 of the Energy Act 2004, as applied by section 44 of the Energy Act 2023”;
 - (b) in paragraph 32(1)(e), for “section 155 of the Energy Act 2004” substitute “section 43 of the Energy Act 2023”;
 - (c) in paragraph 36, for “section 154(4) of this Act” substitute “section 42(4) of the Energy Act 2023”;
 - (d) in paragraph 43, after “the Energy Act 2004” insert “and section 44 of the Energy Act 2023”;
 - (e) in paragraph 44(5), after “the Energy Act 2004” insert “and section 44 of the Energy Act 2023”;
 - (f) in paragraph 45, after “section 157(1)(e) of this Act” insert “as applied by section 44 of the Energy Act 2023”;
 - (g) omit paragraph 46 (but see section 48 of this Act);
 - (h) in paragraph 47, after “Part 1 of this Schedule” insert “and section 44 of the Energy Act 2023”.
- (4) In the application of Schedule 21—
- (a) for “an energy transfer scheme”, in each place where it occurs, substitute “a T&S transfer scheme”;
 - (b) for “old energy company”, in each place where it occurs, substitute “old T&S company”;
 - (c) for “new energy company”, in each place where it occurs, substitute “new T&S company”;
 - (d) in paragraph 1(b), for “section 155(3)” substitute “section 43(3) of the Energy Act 2023”;
 - (e) in paragraph 3(1), for “an “energy transfer scheme”” substitute “a “T&S transfer scheme””;
 - (f) in paragraphs 3(8) and 9(6), for “GEMA” substitute “—
 - (a) GEMA,
 - (b) the Health and Safety Executive,
 - (c) the Oil and Gas Authority,
 - (d) the appropriate devolved authorities (if any), and
 - (e) such other persons as the Secretary of State considers appropriate.”;
 - (g) in paragraph 5, after sub-paragraph (4) insert—

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- “(5) This paragraph also applies in relation to any licence or permit that the relevant licence mentioned in sub-paragraph (1) requires its holder to hold as it applies in relation to the relevant licence.”;
- (h) in paragraphs 6(3) and 11(2), for “the energy transfer scheme” substitute “the T&S transfer scheme”;
- (i) in paragraph 12, for “section 155” substitute “section 43 of the Energy Act 2023”;
- (j) after paragraph 13 insert—
- “14 For the purposes of paragraphs 3(8)(e) and 9(6)(e) the “appropriate devolved authorities” are—
- (a) the Welsh Ministers, if provision making the scheme or (as the case may be) modification 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 scheme or (as the case may be) modification would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.”
- (5) Sections 171 and 196 of the Energy Act 2004 (interpretation) apply for the purposes of the application by subsection (1) of the provisions mentioned in that subsection, but with the modifications set out in subsection (6).
- (6) In the application of section 171(1)—
- (a) insert, at the appropriate places, the following definitions—
- ““objective of the transport and storage administration” is to be construed in accordance with section 43 of the Energy Act 2023;”;
- ““relevant controlled place” has the meaning given by section 42(5) of the Energy Act 2023;”;
- ““T&S company” has the meaning given by section 42(2) of the Energy Act 2023;”;
- ““transport and storage administration order” has the meaning given by section 42(1) of the Energy Act 2023;”;
- ““transport and storage administration rules” means the rules made under section 411 of the 1986 Act by virtue of section 159(3) of this Act, for the purpose of giving effect to this Chapter as applied by section 44 of the Energy Act 2023;”;
- (b) for the definition of “energy administrator” substitute—
- ““T&S administrator” has the meaning given by section 49 of the Energy Act 2023;”;
- (c) for the definition of “relevant licence” substitute—
- ““relevant licence” means a licence under section 7 of the Energy Act 2023.”

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45 Conduct of administration, transfer schemes etc

In section 159(3) of the Energy Act 2004 (conduct of administration, transfer schemes, etc under Chapter 3 of Part 3 of that Act), for “or section 33 of the Nuclear Energy (Financing) Act 2022” substitute “, section 33 of the Nuclear Energy (Financing) Act 2022 or section 44 of the Energy Act 2023”.

Licence modifications

46 Modification of conditions of licences

- (1) The Secretary of State may modify the conditions of a T&S company’s licence (“the section 7 licence”) so that they include—
 - (a) conditions relating to the recovery of amounts owed to the Secretary of State by the T&S company by virtue of, or otherwise relating to, financial assistance given by the Secretary of State while a T&S administration order is in force in relation to the T&S company;
 - (b) conditions relating to raising of funds for the purpose of meeting of expenses arising by virtue of the order.
- (2) The Secretary of State may exercise the power under [subsection \(1\)](#) only if a T&S administration order is in force in relation to the T&S company.
- (3) Before making a modification under [subsection \(1\)](#), the Secretary of State must consult—
 - (a) the economic regulator,
 - (b) if the [section 7](#) licence authorises activities within [section 2\(2\)\(a\)](#), the person who granted any associated licence under section 18 of the Energy Act 2008, and
 - (c) such other persons as the Secretary of State considers appropriate.
- (4) The power to make modifications under [subsection \(1\)](#) includes power to make such incidental, consequential or transitional modifications as the Secretary of State considers necessary or expedient.
- (5) In [subsection \(1\)\(a\)](#), “financial assistance” means grants, loans, guarantees or indemnities, or any other kind of financial assistance.
- (6) For the purposes of this section, a licence under section 18 of the Energy Act 2008 (“the carbon storage licence”) is an “associated licence” in relation to the [section 7](#) licence if—
 - (a) the carbon storage licence is in respect of activities within [section 17\(2\)\(a\)](#) of that Act, and
 - (b) any part of the site to which the [section 7](#) licence relates is within any place to which the carbon storage licence relates.

Powers to modify enactments

47 Modification under the Enterprise Act 2002

- (1) The power to modify or apply enactments conferred on the Secretary of State by each of the sections of the Enterprise Act 2002 mentioned in [subsection \(2\)](#) includes power

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to make such consequential modifications of this Chapter as the Secretary of State considers appropriate in connection with any other provision made under that section.

- (2) Those sections are—
 - (a) sections 248 and 277 (amendments consequential on that Act); and
 - (b) section 254 (power to apply insolvency law to foreign companies).
- (3) In section 170(1) of the Energy Act 2004 (modification of Chapter 3 of Part 3 of that Act under the Enterprise Act 2002), for “or section 33 of the Nuclear Energy (Finance) Act 2022” substitute “, section 33 of the Nuclear Energy (Finance) Act 2022 or section 44 of the Energy Act 2023”.

48 Power to make further modifications of insolvency legislation

- (1) The Secretary of State may by regulations—
 - (a) provide for insolvency legislation to apply in relation to any provision made by or under this Chapter;
 - (b) make such modifications of insolvency legislation as the Secretary of State considers appropriate in relation to any provision made by or under this Chapter (including any insolvency legislation that is applied under paragraph (a)).
- (2) In relation to regulations under subsection (1), “insolvency legislation” means—
 - (a) the Insolvency Act 1986,
 - (b) Chapter 3 of Part 3 of the Energy Act 2004, and
 - (c) any other provision that relates to insolvency, or makes provision by reference to anything that is or may be done under the Insolvency Act 1986, and is—
 - (i) contained in an Act passed before this Act or in the same Session, or
 - (ii) made under an Act before the regulations come into force.
- (3) Provision made under subsection (1) may amend this Chapter.
- (4) Regulations under this section are subject to the affirmative procedure.

Interpretation

49 Interpretation of Chapter 4

- (1) In this Chapter—
 - “business”, “member” and “property” have the same meanings as in the Insolvency Act 1986;
 - “company” means—
 - (a) a company registered under the Companies Act 2006, or
 - (b) an unregistered company;
 - “court”, in relation to a company, means the court—
 - (a) having jurisdiction to wind up the company, or
 - (b) that would have such jurisdiction apart from section 221(2) or 441(2) of the Insolvency Act 1986 (exclusion of winding up jurisdiction in case of companies having principal place of business in, or incorporated in, Northern Ireland);

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“modification” includes omission, addition or alteration, and cognate expressions are to be construed accordingly;

“non-GB company” means a company incorporated outside Great Britain;

“objective of a transport and storage administration” is to be construed in accordance with section 43;

“subsidiary” and “wholly-owned subsidiary” have the meaning given by section 1159 of the Companies Act 2006;

“T&S administration order” (or “transport and storage administration order”) has the meaning given by section 42(1);

“T&S administrator” has the meaning given by section 42(2)(c) and is to be construed in accordance with subsection (2) of this section;

“T&S company” has the meaning given by section 42(2)(b);

“unregistered company” means a company that is not registered under the Companies Act 2006.

- (2) In this Chapter references to the T&S administrator of a company—
- (a) include references to a person appointed under paragraph 91 or 103 of Schedule B1 to the Insolvency Act 1986, as applied by Part 1 of Schedule 20 to the Energy Act 2004 and section 44 of this Act to be the T&S administrator of that company, and
 - (b) where two or more persons are appointed to be the T&S administrator of that company, are to be construed in accordance with the provision made under section 158(5) of the Energy Act 2004, as applied by section 44 of this Act.

CHAPTER 5

TRANSFER SCHEMES

50 Transfer schemes

- (1) This section applies where—
 - (a) a termination event has arisen in relation to a licence, and
 - (b) the economic regulator has complied with its duties under section 17 in relation to the termination event.
- (2) The Secretary of State may make a scheme for the transfer of designated property, rights or liabilities of the licence holder to a person falling within subsection (3), or two or more of those persons, with the objective of—
 - (a) securing that the activities authorised by the licence continue in a manner which—
 - (i) is efficient and economical, and
 - (ii) ensures the safety and security of the transport and storage network, or the part of that network, to which the licence relates, or
 - (b) facilitating the cessation of the transportation and injection of carbon dioxide authorised by the licence and ensuring the safety and security of the transport and storage network, or the part of that network, to which the licence relates.
- (3) The persons to whom a scheme may transfer designated property, rights or liabilities are—
 - (a) the Secretary of State;

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- (b) any person the Secretary of State considers to be an appropriate person to achieve the objective in [subsection \(2\)\(a\)](#) or (as the case may be) [\(b\)](#).
- (4) In determining whether a person is an appropriate person for the purposes of [subsection \(3\)\(b\)](#), the Secretary of State must take into account whether the person would be able to meet the conditions and requirements of any licence or permit that would be transferred to the person under the proposed scheme.
- (5) The Secretary of State may not make a scheme without the consent of—
 - (a) the licence holder, and
 - (b) where the scheme would transfer designated property, rights and liabilities to a person or persons falling within [subsection \(3\)\(b\)](#), each such person.
- (6) In [this section](#)—
 - “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;
 - “termination event” has the meaning given by section 17.

51 Consultation in relation to transfers

- (1) If the Secretary of State proposes to make a scheme under [section 50](#), the Secretary of State must consult the licence holder mentioned in [section 50\(2\)](#) (“the proposed transferor”) before making the scheme.
- (2) If the Secretary of State proposes to make a scheme under [section 50](#) which transfers designated property, rights or liabilities to a person or persons falling within [section 50\(3\)\(b\)](#) (“the proposed transferee or transferees”), the Secretary of State must consult before making the scheme—
 - (a) the proposed transferee or transferees, and
 - (b) where a proposed transferee is not a public authority—
 - (i) the economic regulator,
 - (ii) the Health and Safety Executive,
 - (iii) the Oil and Gas Authority,
 - (iv) the appropriate devolved authorities (if any), and
 - (v) such other persons as the Secretary of State considers appropriate.
- (3) The matters on which the Secretary of State is to consult the proposed transferor, and the proposed transferee or transferees, must include the provision the proposed scheme should make.
- (4) The matters on which the Secretary of State is to consult a body or person falling within [subsection \(2\)\(b\)\(i\) to \(v\)](#) must include whether the proposed transferee is an appropriate person, or whether the proposed transferees are appropriate persons, for the purposes of [section 50\(3\)\(b\)](#).
- (5) For the purposes of [subsection \(2\)\(b\)\(iv\)](#) the “appropriate devolved authorities” are—
 - (a) the Welsh Ministers, if provision making the proposed scheme 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);

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- (b) the Scottish Ministers, if provision making the proposed scheme 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 proposed scheme—
 - (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.
- (6) In [this section](#), “designated” has the same meaning as in [section 50](#).

52 Conduct of transfer schemes

[Schedule 4](#) contains further provision about transfer schemes under [section 50](#).

CHAPTER 6

MISCELLANEOUS AND GENERAL

53 Cooperation of storage licensing authority with economic regulator

- (1) In Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide), after section 34 insert—

“34A Cooperation with economic regulator

- (1) This section applies where a licence holder also holds a relevant licence.
- (2) The licensing authority who granted the licence to the licence holder must provide such assistance as the economic regulator may reasonably require in carrying out its functions in relation to the relevant licence.
- (3) The licensing authority must, in particular, inform the economic regulator if it becomes aware of—
 - (a) circumstances that have arisen, or are likely to arise, in relation to the activities authorised by the licence which, in the opinion of the licensing authority, could affect the carrying on of activities authorised by the relevant licence;
 - (b) circumstances that have arisen, or are likely to arise, in which the licence or a storage permit granted under the licence may be terminated.
- (4) In this section—
 - “economic regulator” has the same meaning as in Part 1 of the Energy Act 2023 (see section 55 of that Act);
 - “relevant licence” means a licence under section 7 of the Energy Act 2023;
 - “storage permit” means a storage permit within the meaning of—

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- (a) regulation 1(3) of the Storage of Carbon Dioxide (Licensing etc) Regulations 2010 ([S.I. 2010/2221](#)), or
- (b) regulation 1(3) of the Storage of Carbon Dioxide (Licensing etc) (Scotland) Regulations 2011 ([S.S.I. 2011/24](#)).

34B Information sharing with economic regulator

- (1) A licensing authority may provide information relating to a licence or a storage permit granted under a licence to the economic regulator for the purpose of enabling or facilitating the exercise of the economic regulator’s functions in relation to a relevant licence.
 - (2) Except as provided by [subsection \(3\)](#), 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).
 - (3) 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 \(1\)](#) is to be taken into account).
 - (4) In this section—
 - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
 - “economic regulator”, “relevant licence” and “storage permit” have the same meaning as in section 34A;
 - “information” includes advice.”
- (2) In section 8 of the Energy Act 2016 (matters to which the Oil and Gas Authority must have regard), in subsection (1), in the paragraph headed “Collaboration”, after “government of the United Kingdom” insert “, with the Gas and Electricity Markets Authority,”.

54 Amendments related to [Part 1](#)

[Schedule 5](#) contains amendments related to this Part.

55 Interpretation of [Part 1](#)

In this Part—

- “carbon dioxide stream” means a flow of substances that results from carbon dioxide capture processes;
- “CMA” means the Competition and Markets Authority;
- “contravention”, in relation to any direction, condition, requirement, regulation or order, includes any failure to comply with it and cognate expressions are to be construed accordingly;
- “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
- “economic regulator” has the meaning given by [section 1\(2\)](#);

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“enactment” includes—

- (a) an enactment contained in subordinate legislation (as defined in section 21 of the Interpretation Act 1978);
- (b) an enactment contained in, or in an instrument made under, a Measure or Act of Senedd Cymru;
- (c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
- (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation;
- (e) any retained direct EU legislation;

“final order” has the meaning given by [section 31\(4\)](#);

“financial year” means a financial year of the economic regulator;

“functions” includes powers and duties;

“geological formation” means a lithostratigraphical subdivision within which distinct rock layers can be found and mapped;

“geological storage”, in relation to carbon dioxide, means storage of carbon dioxide streams in underground geological formations with a view to the permanent containment of carbon dioxide (and references to geological storage are to be read as including injection);

“grantor” has the meaning given by [section 9\(10\)](#);

“licence”, except where the context otherwise requires, means a licence under [section 7](#), and “licence holder” is to be interpreted accordingly;

“licensable activities” has the meaning given by [section 1\(10\)](#);

“licensable means of transportation” has the meaning given by [section 2\(3\)](#);

“modifications” includes additions, alterations and omissions and cognate expressions are to be construed accordingly;

“operates”, in relation to a site for the geological storage of carbon dioxide, is to be interpreted in accordance with [section 2\(10\)](#);

“provisional order” has the meaning given by [section 31\(4\)](#);

“transport and storage network” has the meaning given by [section 1](#).