



Energy Act 2023

2023 CHAPTER 52

PART 12

CORE FUEL SECTOR RESILIENCE

CHAPTER 2

POWERS FOR RESILIENCE PURPOSES

Directions

269 Directions to particular core fuel sector participants

- (1) The Secretary of State may, for the purpose of maintaining or improving core fuel sector resilience, direct a person to whom this section applies to do anything in relation to the person's relevant activities or assets (for example, to acquire and install specific equipment, or carry out specific works, at the person's own expense).
- (2) The Secretary of State may not give a direction under [subsection \(1\)](#) unless the Secretary of State considers that the persons to whom this section applies have failed to make sufficient progress with the steps that the Secretary of State considers necessary for maintaining or improving core fuel sector resilience.
- (3) Where there is disruption to, or a failure of, continuity of supply of core fuels, the Secretary of State may direct a person to whom this section applies to do anything in relation to the person's relevant activities or assets which the Secretary of State considers necessary or expedient for the purpose of—
 - (a) restoring continuity of supply of core fuels, or
 - (b) counteracting the disruption or failure, or its potential adverse impact.
- (4) If the Secretary of State considers that there is a significant risk of disruption to, or a failure of, continuity of supply of core fuels, the Secretary of State may direct a person to whom this section applies to do anything in relation to the person's relevant

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activities or assets which the Secretary of State considers necessary or expedient for the purpose of—

- (a) reducing the risk, or
 - (b) reducing the potential adverse impact of the disruption or failure.
- (5) The Secretary of State may not make a direction under subsection (1), (3) or (4) unless the Secretary of State considers—
- (a) that, the corresponding cases (if any) are not sufficiently numerous to justify making regulations under [section 272](#), or
 - (b) that, by reason of urgency, it is not practicable to achieve the aims of the direction by regulations under [section 272](#).
- (6) In [subsection \(5\)\(a\)](#) the reference to “corresponding cases” is to persons to whom this section applies in relation to whom the Secretary of State considers it would be appropriate to take action corresponding to the direction.
- (7) This section applies to the following persons—
- (a) a person carrying on core fuel sector activities in the course of a business which has capacity in excess of 500,000 tonnes;
 - (b) a [Part 12](#) facility owner if the owned facility has capacity in excess of 20,000 tonnes.
- (8) For the purposes of this Part—
- (a) a business “has capacity in excess of” a specified number of tonnes if in the most recently ended calendar year core fuel sector activities were carried on in that business in relation to more than that number of tonnes of core fuel;
 - (b) a facility or infrastructure “has capacity in excess of” a specified number of tonnes if in the most recently ended calendar year it was used for the purposes of core fuel sector activities in relation to more than that number of tonnes of core fuels.

270 Procedure for giving directions

- (1) Before giving a person a direction under [section 269](#) the Secretary of State must give the person a written notice accompanied by a draft of the proposed direction.
- (2) The notice under [subsection \(1\)](#) must—
- (a) state that the Secretary of State proposes to give the person a direction in the form of the accompanying draft;
 - (b) explain why the Secretary of State proposes to give the direction;
 - (c) state when it is intended that the direction will come into effect;
 - (d) specify a period within which the person may make written representations with respect to the proposal.
- (3) The period specified under [subsection \(2\)\(d\)](#) must begin with the date on which the notice is given to the person and must be not less than 14 days.
- (4) Before giving a direction under [section 269](#), the Secretary of State must consult—
- (a) so far as the direction relates to relevant activities or assets in England, Scotland or Wales, the Health and Safety Executive;
 - (b) so far as the direction relates to relevant activities or assets in England, the Environment Agency;

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- (c) so far as the direction relates to relevant activities or assets in Scotland, the Scottish Environment Protection Agency;
 - (d) so far as the direction relates to relevant activities or assets in Wales, the Natural Resources Body for Wales;
 - (e) so far as the direction relates to relevant activities or assets in Northern Ireland—
 - (i) the Health and Safety Executive for Northern Ireland, and
 - (ii) the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;
 - (f) any other persons the Secretary of State thinks appropriate.
- (5) The Secretary of State must decide whether to give the person the proposed direction (with or without modifications), after considering any representations made by—
- (a) the person mentioned in [subsection \(1\)](#), and
 - (b) any person consulted in accordance with [subsection \(4\)](#).
- (6) The Secretary of State must give written notice of that decision to the person mentioned in [subsection \(1\)](#).
- (7) If the decision is to give the proposed direction, the notice must—
- (a) contain the direction, and
 - (b) state the time when the direction is to take effect.
- (8) Consultation under [subsection \(4\)](#) with the Environment Agency, the Scottish Environment Protection Agency or the Natural Resources Body for Wales must be with reference to that body’s functions under the Control of Major Accident Hazards Regulations 2015 ([S.I. 2015/483](#)).
- (9) Consultation under [subsection \(4\)](#) with the Department of Agriculture, Environment and Rural Affairs in Northern Ireland must be with reference to the department’s functions under the Control of Major Accident Hazards Regulations (Northern Ireland) 2015 ([S.R. \(N.I.\) 2015 No. 325](#)).

271 Offence of failure to comply with a direction

Any person who, without reasonable excuse, fails to comply with a direction given to the person under [section 269](#) commits an offence and is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both);
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
- (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).