



# Energy Act 2023

## 2023 CHAPTER 52

### PART 12

#### CORE FUEL SECTOR RESILIENCE

### CHAPTER 1

#### INTRODUCTION

#### **267 General objective**

The functions of the Secretary of State under this Part must be exercised with a view to—

- (a) ensuring that economic activity in the United Kingdom is not adversely affected by disruptions to core fuel sector activities, and
- (b) reducing the risk of emergencies affecting fuel supplies.

#### **268 “Core fuel sector activity” and other key concepts**

(1) In this Part “core fuel sector activity” means an activity of a kind mentioned in [subsection \(2\)](#), so far as the activity—

- (a) is carried on in the United Kingdom in the course of a business, and
- (b) contributes (directly or indirectly) to the supply of core fuels to consumers in the United Kingdom or persons carrying on business in the United Kingdom.

(2) The kinds of activity are—

- (a) storing oil or renewable transport fuel;
- (b) handling oil or renewable transport fuel;
- (c) the carriage of oil or renewable transport fuel by sea or inland water;
- (d) transporting oil or renewable transport fuel by road or rail;
- (e) conveying oil or renewable transport fuel by pipes;

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- (f) processing or producing oil or renewable transport fuel (whether by refining, blending or otherwise).
- (3) In [subsection \(2\)](#) the references to “oil” do not include crude oil which has not yet entered any refinery or terminal in the United Kingdom.
- (4) In this Part “core fuels” means—
  - (a) crude oil based fuels, and
  - (b) renewable transport fuels.
- (5) In this Part “core fuel sector resilience” means the capability of core fuel sector participants to—
  - (a) manage the risk of,
  - (b) reduce the potential adverse impact of, and
  - (c) facilitate recovery from,disruptions to core fuel sector activities.
- (6) In this Part “core fuel sector participant” means—
  - (a) a person carrying on core fuel sector activities;
  - (b) a [Part 12](#) facility owner.
- (7) For the purposes of this Part there is “continuity of supply of core fuels” where the supply of core fuels to consumers in all areas of the United Kingdom, and persons carrying on business in all areas of the United Kingdom—
  - (a) is reliable and continuous, and
  - (b) is maintained at normal levels.
- (8) In [subsection \(7\)](#) “normal levels” means levels that—
  - (a) are not substantially below average monthly levels of supply in the United Kingdom (taking account of regional variations), and
  - (b) are consistent with a reasonable balance between supply and demand.
- (9) For the purposes of [subsection \(8\)](#) “average monthly levels” are to be calculated by reference to levels of supply in the five years preceding the calculation.
- (10) In this Part “relevant activities or assets”—
  - (a) in relation to a person carrying on core fuel sector activities, means the person’s core fuel sector activities (and includes any land or assets under the person’s control that are associated with those activities);
  - (b) in relation to a [Part 12](#) facility owner, means the owned facility.
- (11) In this Part—
  - (a) “[Part 12](#) facility owner” means the owner of a pipeline, terminal, or other facility or infrastructure which is used, or any part of which is used, for the purposes of core fuel sector activities;
  - (b) in relation to a [Part 12](#) facility owner, “the owned facility” means the facility or infrastructure mentioned in [paragraph \(a\)](#).
- (12) In [subsection \(11\)](#) “owner”, in relation to any facility or infrastructure, means—
  - (a) a person in whom the facility or infrastructure is vested, or
  - (b) a lessee of the facility or infrastructure.

- (13) In this Part references to a “person carrying on core fuel sector activities” include any person carrying on such activities (whether or not as the owner of the oil or renewable transport fuel).

## 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 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;

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

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- (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).

*Corresponding powers to make regulations*

## **272 Corresponding powers to make regulations**

- (1) The Secretary of State may, for the purpose of maintaining or improving core fuel sector resilience, by regulations require persons of a class or description specified in the regulations to do anything in relation to their relevant activities or assets.
- (2) The Secretary of State may not make any provision by regulations under [subsection \(1\)](#) unless the Secretary of State considers that the persons mentioned in paragraphs (a) and (b) of [subsection \(5\)](#) 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 by regulations require persons of a class or description specified in the regulations to do anything in relation to their 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 by regulations require persons of a class or description specified in the regulations to do anything

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- in relation to their relevant 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) A class or description specified for the purposes of subsection (1), (3) or (4) may not include persons other than—
- (a) persons carrying on core fuel sector activities in the course of a business which has capacity in excess of 1,000 tonnes, or
  - (b) Part 12 facility owners whose owned facility has capacity in excess of 1,000 tonnes.
- (6) Regulations under this section may provide that any person who, without reasonable excuse, fails to comply with a requirement imposed by the regulations commits an offence.
- (7) Before making regulations under this section the Secretary of State must consult—
- (a) so far as the regulations relate to relevant activities or assets in England, Scotland or Wales, the Health and Safety Executive;
  - (b) so far as the regulations relate to relevant activities or assets in England, the Environment Agency;
  - (c) so far as the regulations relate to relevant assets or activities in Scotland, the Scottish Environment Protection Agency;
  - (d) so far as the regulations relate to relevant activities or assets in Wales, the Natural Resources Body for Wales;
  - (e) so far as the regulations relate 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.
- (8) Regulations under this section are subject to the affirmative procedure.
- (9) Consultation under subsection (7) 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).
- (10) Consultation under subsection (7) 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).

### *Information*

#### **273 Power to require information**

- (1) The Secretary of State may by notice in writing require any of the following to provide the Secretary of State with information relating to their relevant activities or assets—
- (a) a person carrying on core fuel sector activities in the course of a business which has capacity in excess of 1,000 tonnes;

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- (b) a [Part 12](#) facility owner whose owned facility has capacity in excess of 1,000 tonnes.
- (2) The Secretary of State may by notice in writing require a relevant wetstock manager to provide the Secretary of State with information relating to the relevant activities or assets of a person carrying on core fuel sector activities to whom the relevant wetstock manager provides stock management services.
- (3) In this Part “relevant wetstock manager” means a person who provides to persons who make retail supplies of core fuels in the United Kingdom stock management services in respect of such supplies.
- (4) The Secretary of State may only require information under this section for the purpose of maintaining or improving core fuel sector resilience.
- (5) A notice under [subsection \(1\)](#) or [\(2\)](#) may—
  - (a) specify the manner in which information is to be provided;
  - (b) specify time limits for providing information;
  - (c) require information to be provided at specified intervals.
- (6) Before giving a person a notice under [subsection \(1\)](#) or [\(2\)](#) the Secretary of State must—
  - (a) notify the person in writing of the proposed contents of the notice and of the period within which the person may make written representations with respect to the proposed requirement, and
  - (b) consider any representations made by the person.
- (7) The period notified under [subsection \(6\)\(a\)](#) must begin on the date on which the notification is given and (subject to [subsection \(8\)](#)) must be not less than 14 days.
- (8) The Secretary of State may notify a period under [subsection \(6\)\(a\)](#) that is less than 14 days but not less than 7 days if the Secretary of State considers that it is necessary to do so by reason of urgency.

## **274 Duty to report incidents**

- (1) If at any time a person—
  - (a) knows, or has reason to suspect, that a notifiable incident is occurring or has occurred, and
  - (b) meets the condition in [paragraph \(a\), \(b\) or \(c\) of subsection \(2\)](#),that person must notify the Secretary of State of the incident as soon as possible.
- (2) The conditions mentioned in [subsection \(1\)\(b\)](#) are that—
  - (a) the person is carrying on core fuel sector activities in the course of a business which has capacity in excess of 500,000 tonnes;
  - (b) the person is a [Part 12](#) facility owner in whose case the owned facility has capacity in excess of 500,000 tonnes;
  - (c) the person is of a class or description specified in regulations made by the Secretary of State under this subsection.
- (3) In this section “notifiable incident”, in relation to a person, means an incident which affects the person’s relevant activities or assets in such a way as to create a significant risk of, or cause—

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- (a) disruption to, or
  - (b) a failure of,
- the continuity of supply of core fuels.
- (4) The Secretary of State may by notice in writing require a person who has given a notice under [subsection \(1\)](#) to provide further information about the incident.
- (5) Before giving a person a notice under [subsection \(4\)](#) the Secretary of State must—
- (a) notify the person in writing of—
    - (i) the proposed contents of the notice, and
    - (ii) the period within which the person may make written representations with respect to the proposal, and
  - (b) consider any representations made by the person.
- (6) The period notified under [subsection \(5\)\(a\)\(ii\)](#) must begin on the date on which the notification is given and (subject to [subsection \(7\)](#)) must be not less than 14 days.
- (7) The Secretary of State may notify a period under [subsection \(5\)\(a\)\(ii\)](#) that is less than 14 days but not less than 7 days if the Secretary of State considers that it is necessary to do so by reason of urgency.
- (8) A notice under [subsection \(4\)](#) may specify—
- (a) the manner in which information is to be provided, and
  - (b) time limits for providing information.
- (9) Where a notification under [subsection \(1\)](#) is not made in writing, it must be confirmed in writing as soon as possible.
- (10) Regulations under [subsection \(2\)\(c\)](#) may specify the meaning that “relevant activities or assets” is to have in [subsection \(3\)](#) in relation to persons of a class or description of persons specified in the regulations.
- (11) Regulations under [subsection \(2\)\(c\)](#) are subject to the affirmative procedure.

## **275 Contravention of requirement under [section 273](#) or [274](#)**

- (1) A person who, without reasonable excuse, fails to comply with a requirement imposed by a notice under [section 273\(1\)](#) or [\(2\)](#) or [274\(4\)](#) commits an offence.
- (2) A person who, without reasonable excuse, fails to comply with [section 274\(1\)](#) commits an offence.
- (3) A person who commits an offence under this section 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).



## **276 Provision of information at specified intervals**

- (1) The Secretary of State may by regulations require any of the following to provide to the Secretary of State, at intervals specified in the regulations, information relating to their relevant activities or assets—
  - (a) a person carrying on core fuel sector activities in the course of a business which has capacity in excess of 1,000 tonnes;
  - (b) a [Part 12](#) facility owner whose owned facility has capacity in excess of 1,000 tonnes.
- (2) The Secretary of State may by regulations require a relevant wetstock manager to provide to the Secretary of State, at intervals specified in the regulations, information relating to the relevant activities or assets of a person carrying on core fuel sector activities to whom the relevant wetstock manager provides stock management services.
- (3) The power to make regulations under this section may only be exercised for the purpose of maintaining or improving core fuel sector resilience.
- (4) The regulations may make provision about—
  - (a) the information to be provided;
  - (b) the manner in which information is to be provided;
  - (c) time limits for providing information.
- (5) Regulations under this section may provide that any person who, without reasonable excuse, fails to comply with a requirement imposed by the regulations commits an offence.
- (6) Regulations under this section are subject to the affirmative procedure.

## **277 Disclosure of information held by the Secretary of State**

- (1) Subsection (2) applies to information held by the Secretary of State which was provided to the Secretary of State under [section 273](#), [274](#) or [276](#).
- (2) The information may be disclosed—
  - (a) to any government department or devolved authority for the purpose of—
    - (i) maintaining or improving core fuel sector resilience, or
    - (ii) restoring, or counteracting a disruption to, or failure of, continuity of supply of core fuels (or counteracting the potential adverse impact of any such disruption or failure), or
  - (b) if the disclosure is necessary for the purpose of criminal proceedings.
- (3) Nothing in this section authorises the making of a disclosure which—
  - (a) contravenes the data protection legislation (as defined in section 3 of the Data Protection Act 2018), or
  - (b) is prohibited by any of Parts 1 to 7 of, or Chapter 1 of Part 9 of, the Investigatory Powers Act 2016.

In determining whether a disclosure would fall within paragraph (a) or (b), the powers conferred by this section are to be taken into account.

- (4) In subsection (2) “devolved authority” means—
  - (a) the Welsh Ministers,

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- (b) the Scottish Ministers, or
- (c) a Northern Ireland department.

## **278 Disclosure of information by HMRC**

- (1) His Majesty’s Revenue and Customs (or anyone acting on their behalf) may disclose information to the Secretary of State for the purpose of facilitating the exercise by the Secretary of State of functions relating to core fuel sector resilience.
- (2) A person who receives information as a result of this section may not—
  - (a) use the information for a purpose other than that mentioned in [subsection \(1\)](#), or
  - (b) further disclose the information,
 except with the consent of the Commissioners for His Majesty’s Revenue and Customs (which may be general or specific).
- (3) If a person discloses information in contravention of [subsection \(2\)\(b\)](#) which relates to a person whose identity—
  - (a) is specified in the disclosure, or
  - (b) can be deduced from it,
 section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of information in contravention of section 20(9) of that Act.
- (4) This section does not limit the circumstances in which information may be disclosed under section 18(2) of the Commissioners for Revenue and Customs Act 2005 or under any other enactment or rule of law.
- (5) Nothing in this section authorises the making of a disclosure which—
  - (a) contravenes the data protection legislation (as defined in section 3 of the Data Protection Act 2018), or
  - (b) is prohibited by any of Parts 1 to 7 of, or Chapter 1 of Part 9 of, the Investigatory Powers Act 2016.

In determining whether a disclosure would fall within paragraph (a) or (b), the powers conferred by this section are to be taken into account.

### *Appeal against notice or direction*

## **279 Appeal against notice or direction**

- (1) A person to whom a direction under [section 269](#) or a notice under [section 273](#) or [274\(4\)](#) is given may appeal to the First-tier Tribunal against the direction or notice on the ground that the decision to give it—
  - (a) is based on an error of fact,
  - (b) is wrong in law, or
  - (c) is unfair or unreasonable.
- (2) On an appeal under this section the Tribunal may—
  - (a) confirm or cancel the direction or notice, or

- (b) refer the matter back to the Secretary of State for reconsideration with such directions (if any) as the Tribunal considers appropriate.

### CHAPTER 3

#### ENFORCEMENT

##### *Offences*

#### **280 False statements etc**

- (1) It is an offence for a person to make a statement which the person knows is false or materially misleading—
  - (a) in responding to a requirement imposed by the Secretary of State—
    - (i) under [section 273](#) (power to require information),
    - (ii) under [section 274\(4\)](#) (duty to report incidents), or
    - (iii) under regulations under [section 276](#) (provision of information at specified intervals), or
  - (b) in making any other statement to the Secretary of State in connection with any of the Secretary of State’s functions under this Part.
- (2) A person who commits an offence under this section 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).

#### **281 Offences under regulations**

- (1) This section applies to regulations under—
  - (a) [section 272](#) (corresponding powers to make regulations);
  - (b) [section 276](#) (provision of information at specified intervals).
- (2) Regulations to which this section applies may provide for an offence under the regulations to be triable—
  - (a) only summarily, or
  - (b) either summarily or on indictment.
- (3) Regulations to which this section applies may provide for an offence under the regulations that is triable either way to be punishable—
  - (a) on summary conviction in England and Wales with imprisonment for a term not exceeding the period specified or a fine (or both);
  - (b) on summary conviction in Scotland or Northern Ireland with imprisonment for a term not exceeding the period specified or a fine not exceeding the statutory maximum (or both);

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- (c) on conviction on indictment, with imprisonment for a term not exceeding the period specified, which may not exceed two years, or a fine (or both).
- (4) A period specified under [subsection \(3\)\(a\)](#) may not exceed the general limit in a magistrates' court.
- (5) A period specified under [subsection \(3\)\(b\)](#) may not exceed—
  - (a) in relation to Scotland, 12 months;
  - (b) in relation to Northern Ireland, 6 months.
- (6) Regulations to which this section applies may provide for a summary offence under the regulations to be punishable—
  - (a) with imprisonment for a term not exceeding the period specified,
  - (b) with—
    - (i) in England and Wales, a fine (or a fine not exceeding an amount specified, which must not exceed level 4 on the standard scale), or
    - (ii) in Scotland or Northern Ireland, a fine not exceeding the amount specified, which must not exceed level 5 on the standard scale, or
  - (c) with both.
- (7) A period specified under subsection (6)(a) may not exceed—
  - (a) in relation to England and Wales—
    - (i) 6 months, in relation to offences committed before the date on which section 281(5) of the Criminal Justice Act 2003 comes into force, or
    - (ii) 51 weeks, in relation to offences committed on or after that date,
  - (b) in relation to Scotland, 12 months,
  - (c) in relation to Northern Ireland, 6 months.
- (8) In this section “specified” means specified in the regulations.

## **282 Proceedings for offences**

Proceedings for an offence under this Part (including an offence created by regulations under [section 272](#) or [276](#))—

- (a) may not be brought in England and Wales except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
- (b) may not be brought in Northern Ireland except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

## **283 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—
  - (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.

### *Enforcement undertakings*

## **284 Enforcement undertakings**

- (1) Subsection (2) applies if—
  - (a) the Secretary of State has reasonable grounds to suspect that a person has committed an offence falling within [subsection \(5\)](#),
  - (b) the person offers to the Secretary of State an enforcement undertaking in respect of the relevant act or omission, and
  - (c) the Secretary of State accepts that undertaking.
- (2) Unless the person has failed to comply with the undertaking (or any part of it) the person may not at any time be convicted of that offence in respect of the relevant act or omission.
- (3) In this Part “enforcement undertaking” means an undertaking to take, within any period specified in the undertaking, action—
  - (a) for any of the purposes in [subsection \(4\)](#), or
  - (b) of a description specified in regulations made by the Secretary of State.
- (4) The purposes mentioned in [subsection \(3\)](#) are—
  - (a) to secure that the offence does not continue or recur,
  - (b) to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed, or
  - (c) to benefit any person affected by the offence.
- (5) The following offences fall within this subsection—
  - (a) an offence under—
    - (i) [section 271](#) (failure to comply with a direction),
    - (ii) [section 275](#) (contravention of requirement under [section 273](#) or [274](#)),or
    - (iii) [section 280](#) (false statements etc);
  - (b) an offence, other than an offence triable only summarily, that is created by regulations under—
    - (i) [section 272](#) (corresponding powers to make regulations), or
    - (ii) [section 276](#) (provision of information at regular intervals).
- (6) The reference in [subsection \(4\)\(c\)](#) to action to “benefit any person affected by the offence” includes action by way of the payment of a sum of money.

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*Status: This is the original version (as it was originally enacted).*

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- (7) Where a person from whom the Secretary of State has accepted an enforcement undertaking has failed to comply fully with the undertaking but has complied with part of it, the partial compliance must be taken into account in any decision whether to institute any criminal proceedings in respect of the offence in question.
- (8) In this section “relevant act or omission” means an act or omission of the person to which the grounds mentioned in [subsection \(1\)\(a\)](#) relate.
- (9) Regulations under [subsection \(3\)\(b\)](#) are subject to the affirmative procedure.
- (10) [Schedule 20](#) contains further provision about enforcement undertakings, including provision about—
  - (a) procedure;
  - (b) compliance certificates;
  - (c) appeals.

### *Guidance*

#### **285 Guidance: criminal and civil sanctions**

- (1) The Secretary of State must issue guidance as to—
  - (a) the sanctions (including criminal sanctions) to which a person who commits an offence under this Part may be liable,
  - (b) the action which the Secretary of State may take to enforce offences under this Part, whether by virtue of [section 284](#) and [Schedule 20](#) or otherwise, and
  - (c) the circumstances in which the Secretary of State is likely to take any such action.
- (2) The Secretary of State—
  - (a) must issue guidance about how the Secretary of State intends to exercise the Secretary of State’s functions under [section 284](#) and [Schedule 20](#);
  - (b) must have regard to the guidance in exercising the Secretary of State’s functions under those provisions.
- (3) Before issuing guidance under this section, the Secretary of State must—
  - (a) prepare a draft of the proposed guidance;
  - (b) consult such persons as the Secretary of State considers appropriate;
  - (c) comply with the requirements of [section 286](#).
- (4) The Secretary of State may from time to time revise guidance issued under this section and issue revised guidance.
- (5) [Subsection \(3\)](#) applies to revised guidance as it applies to the original guidance.
- (6) The Secretary of State must arrange for the publication of guidance (or revised guidance) issued under this section.

#### **286 Guidance: Parliamentary scrutiny**

- (1) Before issuing guidance under [section 285](#), the Secretary of State must lay a draft of the proposed guidance before both Houses of Parliament.

- (2) The Secretary of State must not issue the guidance until after the period of 40 days beginning with—
  - (a) the day on which the draft is laid before both Houses of Parliament, or
  - (b) if the draft is laid before the House of Lords on one day and the House of Commons on another, the later of those two days.
- (3) If before the end of that period either House resolves that the guidance should not be issued, the Secretary of State may not issue it.
- (4) In reckoning any period of 40 days for the purposes of [subsection \(2\)](#), no account is to be taken of any time during which—
  - (a) Parliament is dissolved or prorogued, or
  - (b) both Houses are adjourned for more than four days.

## CHAPTER 4

### GENERAL

#### *Financial assistance*

#### **287 Financial assistance for resilience and continuity purposes**

- (1) The Secretary of State may, with the consent of the Treasury, provide financial assistance to a core fuel sector participant for the purpose of—
  - (a) maintaining or improving core fuel sector resilience, or
  - (b) securing or maintaining continuity of supply of core fuels.
- (2) Financial assistance under this section may be given in any form.
- (3) Financial assistance under this section may, in particular, be given by way of—
  - (a) grants,
  - (b) loans,
  - (c) guarantee or indemnity,
  - (d) the acquisition of shares or any other interest in, or securities of, a body corporate,
  - (e) the acquisition of any undertaking or assets, or
  - (f) incurring expenditure for the benefit of the person assisted.
- (4) Financial assistance under this section may be given on such terms and conditions as the Secretary of State considers appropriate (including provision for repayment, with or without interest).
- (5) The Secretary of State is not authorised by this section to give financial assistance in the way described in [subsection \(3\)\(d\)](#) without the consent of the body corporate concerned.

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*Status: This is the original version (as it was originally enacted).*

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*Power to amend thresholds*

**288 Power to amend thresholds**

- (1) The Secretary of State may by regulations amend or modify any provision mentioned in [subsection \(2\)](#) for the purpose of varying any amount for the time being specified in that provision.
- (2) The provisions are—
  - (a) [section 269\(7\)](#) (directions to core fuel sector participants);
  - (b) [section 272\(5\)](#) (corresponding powers to make regulations);
  - (c) [section 273\(1\)](#) (power to require information);
  - (d) [section 274\(2\)\(a\)](#) and (b) (duty to report incidents);
  - (e) [section 276\(1\)](#) (provision of information at specified intervals).
- (3) Regulations under [this section](#) are subject to the affirmative procedure.

*Interpretation of Part 12*

**289 Interpretation of Part 12**

- (1) In this Part—
  - “company” means a company within the meaning of section 1 of the Companies Act 2006;
  - “continuity of supply of core fuels” is to be interpreted in accordance with [section 268\(7\)](#);
  - “core fuel sector activity” has the meaning given by [section 268](#);
  - “core fuel sector participant” has the meaning given by [section 268\(6\)](#);
  - “core fuel sector resilience” has the meaning given by [section 268\(5\)](#);
  - “core fuels” has the meaning given by [section 268\(4\)](#);
  - “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes—
    - (a) crude oils from which distillate fractions have been removed, and
    - (b) crude oils to which distillate fractions have been added;
  - “crude oil based fuel” means any fuel comprised wholly or mainly of crude oil or substances derived from crude oil;
  - “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;
  - “enforcement undertaking” has the meaning given by [section 284](#);
  - “oil” means—



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- (a) crude oil;
- (b) crude oil based fuels;
- (c) components;

“the owned facility”, in relation to a [Part 12](#) facility owner, has the meaning given by [section 268\(11\)](#);

“Part 12 facility owner” has the meaning given by [section 268\(11\)](#);

“person carrying on core fuel sector activities” is to be interpreted in accordance with [section 268\(13\)](#);

“relevant activities or assets” is to be interpreted in accordance with [section 268\(10\)](#);

“relevant wetstock manager” has the meaning given by [section 273\(3\)](#);

“renewable transport fuel” has the meaning given by section 132 of the Energy Act 2004;

“terminal” means any site for the storage in bulk of oil or renewable transport fuel.

- (2) In this Part references to the “capacity” of a business or of a facility or infrastructure are to be interpreted in accordance with [section 269\(8\)](#).
- (3) References in this Part to a person carrying on business include references to a person carrying on business in partnership with one or more other persons.
- (4) For the purposes of the definition of “oil” in [subsection \(1\)](#) “component” means any substance (whether or not derived from crude oil) of a kind which is mixed with other substances to produce a crude oil based fuel.