



# Energy Act 2023

## 2023 CHAPTER 52

### PART 2

#### CARBON DIOXIDE CAPTURE, STORAGE ETC AND HYDROGEN PRODUCTION, TRANSPORT AND STORAGE

### CHAPTER 5

#### CARBON STORAGE INFORMATION AND SAMPLES

#### *Introductory*

#### **107 Chapter 5: key definitions**

- (1) This section applies for the purposes of this Chapter.
- (2) “Carbon storage licence” means a licence granted, or having effect as if granted, by the OGA under section 18(1) of the Energy Act 2008 (and references to a “licensee” are to a person who holds such a licence).
- (3) “Exploration operator”, in relation to a carbon storage licence, means a person who is responsible for organising or supervising—
  - (a) the carrying on of exploration, within the area within which activities are authorised under the licence, with a view to, or in connection with, the carrying on of activities within section 17(2)(a) or (b) of the Energy Act 2008, or
  - (b) the establishment or maintenance in a controlled place (as defined in section 17 of the Energy Act 2008) of an installation for the purposes of such exploration.
- (4) “Carbon storage information” means information acquired or created by or on behalf of a licensee in the course of carrying out activities under the licensee’s carbon storage licence.

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- (5) “Carbon storage samples” means samples of substances acquired by or on behalf of a licensee in the course of carrying out activities under the licensee’s carbon storage licence.
- (6) “Sanctionable requirement” means a requirement imposed on a person by or under a provision of this Chapter which, by virtue of the provision, is sanctionable in accordance with this Chapter.

**Commencement Information**

**II** [S. 107](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

*Requirements relating to information and samples*

**108 Retention of information and samples**

- (1) Regulations made by the Secretary of State may require—
- (a) specified licensees to retain specified carbon storage information;
  - (b) specified licensees to retain specified carbon storage samples.
- (2) “Specified” means specified, or of a description specified, in regulations under this section.
- (3) Regulations under this section may include provision about—
- (a) the form or manner in which information or samples are to be retained;
  - (b) the period for which information or samples are to be retained;
  - (c) the event that triggers the commencement of that period.
- (4) Regulations under this section may provide for requirements imposed by the regulations to continue following a termination of rights under the licensee’s carbon storage licence (whether by transfer, surrender, expiry or revocation and whether in relation to all or only part of the licence).
- (5) Regulations under this section may not impose requirements which have effect in relation to particular carbon storage information or particular carbon storage samples at any time when an information and samples plan dealing with the information or samples has effect.
- (6) Requirements imposed by regulations under this section are sanctionable in accordance with this Chapter.
- (7) Before making regulations under this section, the Secretary of State must consult each licensing authority that may under section 18(1) of the Energy Act 2008 grant a licence in respect of the carrying on, in a place to which the regulations would apply, of activities within section 17(2) of that Act.
- (8) Regulations under this section are subject to the negative procedure.

**Commencement Information**

**I2** [S. 108](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

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## 109 Preparation and agreement of information and samples plans

- (1) The responsible person must prepare an information and samples plan in connection with any of the following (each “a licence event”)—
  - (a) where a licensee is a company, a change in control of the company within the meaning of paragraph 6 of Schedule 1 to the Carbon Dioxide (Licensing etc.) Regulations 2010 ([S.I. 2010/2221](#)) (inserted by [Schedule 6](#) to this Act);
  - (b) a change in the identity of—
    - (i) the exploration operator under a carbon storage licence, or
    - (ii) where a storage permit has been granted under a carbon storage licence, the operator in relation to the storage permit (within the meaning of regulation 1(3) of the Carbon Dioxide (Licensing etc.) Regulations 2010);
  - (c) a transfer of rights under a carbon storage licence, whether in relation to all or part of the area in respect of which the licence was granted;
  - (d) a surrender of rights under a carbon storage licence in relation to all of the area in respect of which the licence was granted, or in relation to so much of that area in respect of which the licence continues to have effect;
  - (e) the expiry of a carbon storage licence;
  - (f) the termination of a carbon storage licence;
  - (g) the revocation of a storage permit.
- (2) “Responsible person”, in relation to a licence event, means the person who is or was, or the persons who are or were, the licensee in respect of the relevant licence immediately before the licence event.
- (3) “Relevant licence”, in relation to a licence event, means the carbon storage licence in respect of which the licence event occurs.
- (4) “Information and samples plan”, in relation to a licence event, means a plan dealing with what is to happen, following the event, to—
  - (a) carbon storage information held by the responsible person before the event, and
  - (b) carbon storage samples held by that person before the event.
- (5) The responsible person must agree the information and samples plan with the OGA—
  - (a) in the case of a licence event mentioned in [subsection \(1\)\(a\), \(b\), \(c\), \(d\) or \(e\)](#), before the licence event takes place, or
  - (b) in the case of a licence event mentioned in [subsection \(1\)\(f\) or \(g\)](#), within a reasonable period after the termination of the carbon storage licence or revocation of the storage permit.
- (6) An information and samples plan has effect once it is agreed with the OGA.
- (7) If an information and samples plan is not agreed with the OGA as mentioned in [subsection \(5\)\(a\) or \(b\)](#), the OGA—
  - (a) may itself prepare an information and samples plan in connection with the licence event, and
  - (b) may require the responsible person to provide it with such information as the OGA may require to enable it to do so.
- (8) The OGA must inform the responsible person of the terms of any information and samples plan it prepares in connection with a licence event.

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- (9) Where the OGA—
- (a) prepares an information and samples plan in connection with a licence event, and
  - (b) informs the responsible person of the terms of the plan,
- the plan has effect as if it had been prepared by the responsible person and agreed with the OGA.
- (10) Where an information and samples plan has effect in connection with a licence event, the responsible person must comply with the plan.
- (11) The requirements imposed by [subsection \(5\)](#) and [\(10\)](#), or under [subsection \(7\)\(b\)](#), are sanctionable in accordance with this Chapter.

#### Commencement Information

**I3** [S. 109](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

### 110 Information and samples plans: supplementary

- (1) Where an information and samples plan has effect in relation to a licence event, the OGA and the responsible person may agree changes to the plan.
- (2) Once changes are agreed, the plan has effect subject to those changes.
- (3) Where—
- (a) two or more persons are the responsible person in relation to a licence event, and
  - (b) those persons include a company that has, since the licence event, been dissolved,
- the reference to the responsible person in [subsection \(1\)](#) does not include that company.
- (4) An information and samples plan, in relation to a licence event, may provide as appropriate for—
- (a) the retention, by the responsible person, of any carbon storage information or carbon storage samples held by or on behalf of that person before the licence event,
  - (b) the transfer of any such information or samples to a new licensee, or
  - (c) appropriate storage of such information or samples.
- (5) Where an information and samples plan makes provision under [subsection \(4\)](#) for a person, other than the responsible person, to hold information or samples in accordance with the plan—
- (a) the plan may, with the consent of that other person, impose requirements on that person in connection with the information and samples, and
  - (b) any such requirements are sanctionable in accordance with this Chapter.
- (6) An information and samples plan prepared by the OGA under [section 109](#) may not include provision under [subsection \(4\)\(b\)](#) for the transfer of information or samples to another person without the consent of the responsible person.
- (7) An information and samples plan may provide for the storage of information or samples as mentioned in [subsection \(4\)\(c\)](#) to be the responsibility of the OGA.

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- (8) Where a transfer of rights under a carbon storage licence relates to only part of the area in relation to which the licence was granted, the information and samples plan prepared in connection with the transfer is to relate to all carbon storage information and carbon storage samples held by the responsible person before the licence event, and not only information and samples in respect of that part of the area.
- (9) In this section, “licence event” and “responsible person” have the same meaning as in [section 109](#).

#### Commencement Information

**I4** [S. 110](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

### 111 Information and samples coordinators

- (1) A person within [subsection \(2\)](#) (a “relevant person”) must—
  - (a) appoint an individual to act as an information and samples coordinator, and
  - (b) notify the OGA of that individual’s name and contact details.
- (2) The following persons are within this subsection—
  - (a) a licensee, and
  - (b) an exploration operator under a carbon storage licence.
- (3) The information and samples coordinator is to be responsible for monitoring the relevant person’s compliance with its obligations under this Chapter.
- (4) A relevant person must comply with [subsection \(1\)](#) within a reasonable period after—
  - (a) the date on which this section comes into force, if the person is a relevant person on that date, or
  - (b) becoming a relevant person, in any other case.
- (5) The relevant person must notify the OGA of any change in the identity or contact details of the information and samples coordinator within a reasonable period of the change taking place.
- (6) The requirements imposed by this section are sanctionable in accordance with this Chapter.

#### Commencement Information

**I5** [S. 111](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

### 112 Power of OGA to require information and samples

- (1) The OGA may by notice in writing, for the purpose of carrying out any of its functions under Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide), require—
  - (a) a licensee to provide it with any carbon storage information, or a portion of any carbon storage sample, held by or on behalf of the licensee;
  - (b) a person who holds information or samples in accordance with an information and samples plan to provide it with any such information or a portion of any such sample.

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- (2) The notice must specify—
  - (a) the form or manner in which the information or the portion of a sample must be provided;
  - (b) the time at which, or period within which, the information or the portion of a sample must be provided.
- (3) Information requested under [subsection \(1\)](#) may not include items subject to legal privilege.
- (4) Requirements imposed by a notice under this section are sanctionable in accordance with this Chapter.
- (5) Where a person provides information or a portion of a sample to the OGA in accordance with a notice under this section, any requirements imposed on the person in respect of that information or sample by regulations under [section 108](#) are unaffected.

**Commencement Information**

**I6** [S. 112](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

**113 Prohibition on disclosure of information or samples by OGA**

- (1) Protected material must not be disclosed—
  - (a) by the OGA, or
  - (b) by a subsequent holder,
 except in accordance with [section 114](#) or [Schedule 7](#).
- (2) In this section and in [Schedule 7](#)—
 

“protected material” means information or samples which have been obtained by the OGA under [section 112](#) or [124](#);

“subsequent holder”, in relation to protected material, means a person holding protected material who has received it directly or indirectly from the OGA by virtue of a disclosure, or disclosures, in accordance with [Schedule 7](#).
- (3) References to disclosing protected material include references to making the protected material available to other persons (where the protected material includes samples).

**Commencement Information**

**I7** [S. 113](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

**114 Power of Secretary of State to require information and samples**

- (1) The Secretary of State may require the OGA to provide the Secretary of State with such information or samples held by or on behalf of the OGA as the Secretary of State may require for the purpose of—
  - (a) carrying out any function conferred by or under any Act,
  - (b) monitoring the OGA's performance of its functions, or
  - (c) any Parliamentary proceedings.

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- (2) The Secretary of State may use information or samples acquired under [subsection \(1\)](#) (“acquired material”) only for the purpose for which it is provided.
- (3) Acquired material must not be disclosed—
  - (a) by the Secretary of State, or
  - (b) by a subsequent holder,except in accordance with this section.
- (4) For the purposes of [subsection \(3\)\(b\)](#), “subsequent holder”, in relation to acquired material, means a person who receives acquired material directly or indirectly from the Secretary of State by virtue of a disclosure, or disclosures, in accordance with this section.
- (5) [Subsection \(3\)](#) does not prohibit the Secretary of State from disclosing acquired material so far as necessary for the purpose for which it was provided.
- (6) [Subsection \(3\)](#) does not prohibit a disclosure of acquired material if—
  - (a) the disclosure is required by virtue of an obligation imposed by or under any Act, or
  - (b) the OGA consents to the disclosure and, where the acquired material in question was provided to the OGA by or on behalf of another person, confirms that that person also consents to the disclosure.
- (7) References in this section to disclosing acquired material include references to making the acquired material available to other persons (where the acquired material includes samples).

#### **Commencement Information**

**18** [S. 114](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

### *Enforcement of sanctionable requirements*

#### **115 Power of OGA to give sanction notices**

- (1) If the OGA considers that a person has failed to comply with a sanctionable requirement imposed on the person, it may give the person a sanction notice in respect of that failure.
- (2) If the OGA considers that there has been a failure to comply with a sanctionable requirement imposed jointly on two or more persons, it may give a sanction notice in respect of that failure—
  - (a) to one only of those persons (subject to [section 118\(2\)](#)),
  - (b) jointly to two or more of them, or
  - (c) jointly to all of them,but it may not give separate sanction notices to each of them in respect of the failure.
- (3) In this Chapter “sanction notice” means—
  - (a) an enforcement notice (see [section 116](#)),
  - (b) a financial penalty notice (see [section 117](#)),
  - (c) a revocation notice (see [section 118](#)), or

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- (d) an operator removal notice (see [section 119](#)).
- (4) Sanction notices, other than enforcement notices, may be given in respect of a failure to comply with a sanctionable requirement even if, at the time the notice is given, the failure to comply has already been remedied.
- (5) Where the OGA gives a sanction notice to a person in respect of a particular failure to comply with a sanctionable requirement—
- (a) it may, at the same time, give another type of sanction notice to the person in respect of that failure to comply;
  - (b) it may give subsequent sanction notices in respect of that failure only in accordance with [section 122](#) (subsequent sanction notices).
- (6) The OGA’s power to give sanction notices under this section is subject to [section 120](#) (duty of OGA to give sanction warning notices).
- (7) Where the OGA gives a sanction notice to a licensee in respect of a failure to comply with a sanctionable requirement—
- (a) the matter is to be dealt with in accordance with this Chapter, and
  - (b) any requirement under the licensee’s carbon storage licence to deal with the matter in a certain way (including by arbitration) does not apply in respect of that failure to comply.

**Commencement Information**

**I9** [S. 115](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

**116 Enforcement notices**

- (1) An enforcement notice is a notice which—
- (a) specifies the sanctionable requirement in question,
  - (b) gives details of the failure to comply with the requirement, and
  - (c) informs the person or persons to whom the notice is given that the person or persons must comply with—
    - (i) the sanctionable requirement, and
    - (ii) any directions included in the notice as mentioned in [subsection \(2\)](#), before the end of the period specified in the notice.
- (2) The notice may include directions as to the measures to be taken for the purposes of compliance with the sanctionable requirement.
- (3) Requirements imposed by directions included in an enforcement notice as mentioned in [subsection \(2\)](#) are sanctionable in accordance with this Chapter.

**Commencement Information**

**I10** [S. 116](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

**117 Financial penalty notices**

- (1) A financial penalty notice is a notice which—



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- (a) specifies the sanctionable requirement in question,
  - (b) gives details of the failure to comply with the requirement, and
  - (c) informs the person or persons to whom the notice is given that the person or persons must—
    - (i) comply with the sanctionable requirement before the end of a period specified in the notice, where it is appropriate to require such compliance and the failure to comply with the requirement has not already been remedied at the time the notice is given, and
    - (ii) pay the OGA a financial penalty of the amount specified in the notice before the end of a period specified in the notice.
- (2) The period specified under [subsection \(1\)\(c\)\(ii\)](#) must not end earlier than the end of the period of 28 days beginning with the day on which the financial penalty notice is given.
- (3) The financial penalty payable under a financial penalty notice in respect of a failure to comply with a sanctionable requirement (whether payable by one person, or jointly by two or more persons) must not exceed £1 million.
- (4) If a financial penalty notice is given jointly to two or more persons, those persons are jointly and severally liable to pay the financial penalty under it.
- (5) A financial penalty payable under a financial penalty notice is to be recoverable as a civil debt if it is not paid before the end of the period specified under [subsection \(1\)\(c\)\(ii\)](#).
- (6) The OGA must—
  - (a) issue guidance as to the matters to which it will have regard when determining the amount of the financial penalty to be imposed by a financial penalty notice, and
  - (b) have regard to the guidance when determining the amount of the penalty in any particular case.
- (7) The OGA may from time to time review guidance issued under [subsection \(6\)\(a\)](#) and, if it considers appropriate, revise it.
- (8) Before issuing or revising guidance under this section, the OGA must consult such persons as it considers appropriate.
- (9) The OGA must—
  - (a) lay any guidance issued under this section, and any revision of it, before each House of Parliament;
  - (b) publish any guidance issued under this section, and any revision of it, in such manner as the OGA considers appropriate.
- (10) The Secretary of State may by regulations subject to the affirmative procedure amend [subsection \(3\)](#) to change the amount specified to an amount not exceeding £5 million.
- (11) Money received by the OGA under a financial penalty notice must be paid into the Consolidated Fund.

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#### Commencement Information

**I11** S. 117 in force at 26.12.2023, see s. 334(3)(b)

### 118 Revocation notices

- (1) A revocation notice may be given only in respect of a failure to comply with a sanctionable requirement imposed on a licensee in that capacity.
- (2) Where two or more persons are the licensee in respect of a carbon storage licence, the revocation notice must be given jointly to all of those persons.
- (3) A revocation notice is a notice which—
  - (a) specifies the sanctionable requirement in question,
  - (b) gives details of the failure to comply with the requirement,
  - (c) informs the person or persons to whom the notice is given that—
    - (i) where no storage permit has been granted under the carbon storage licence, the licence is to be terminated, or
    - (ii) where a storage permit has been granted under the carbon storage licence, the permit is to be revoked,
 on the date specified in the notice (“the revocation date”).
- (4) The revocation date must not be earlier than the end of the period of 28 days beginning with the day on which the revocation notice is given.
- (5) A revocation notice may not be given in circumstances where the carbon storage licence to be terminated, or the storage permit to be revoked, in accordance with the notice is one which, on the date the notice is given, the OGA would not have the power to grant.
- (6) Where a carbon storage licence is terminated in accordance with a revocation notice—
  - (a) the rights granted to the licensee by the licence cease on the revocation date;
  - (b) the revocation does not affect any obligation or liability imposed on or incurred by the licensee under the terms and conditions of the licence;
  - (c) the terms and conditions of the licence apply as if the licence had been terminated in accordance with those terms and conditions, subject to [section 115\(7\)\(b\)](#).
- (7) Where a storage permit is revoked in accordance with a revocation notice—
  - (a) the authorisation granted by the storage permit ceases on the revocation date;
  - (b) the revocation does not affect any obligation or liability imposed or incurred under the terms and conditions of the storage permit;
  - (c) the terms and conditions of the carbon storage licence apply as if the storage permit had been revoked in accordance with those terms and conditions, subject to [section 115\(7\)\(b\)](#).

#### Commencement Information

**I12** S. 118 in force at 26.12.2023, see s. 334(3)(b)

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## 119 Operator removal notices

- (1) An operator removal notice may be given only in respect of a failure to comply with a sanctionable requirement imposed on an exploration operator under a carbon storage licence in that capacity.
- (2) An operator removal notice is a notice which—
  - (a) specifies the sanctionable requirement,
  - (b) gives details of the failure to comply with the requirement, and
  - (c) informs the exploration operator to whom it is given that, with effect from a date specified in the notice (“the removal date”), the licensee under whose carbon storage licence the exploration operator operates (“the relevant licensee”) is to be required to remove the exploration operator (see [subsection \(4\)](#)).
- (3) The OGA must—
  - (a) give a copy of the operator removal notice to the relevant licensee, and
  - (b) require the relevant licensee to remove the exploration operator with effect from the removal date.
- (4) Where a licensee is required to remove an exploration operator from a specified date, the licensee must ensure that, with effect from that date, the exploration operator does not exercise any function of organising or supervising any of the activities referred to in paragraphs (a) and (b) of [section 107\(3\)](#).
- (5) The removal date must not be earlier than the end of the period of 28 days beginning with the day on which the operator removal notice is given.
- (6) An operator removal notice may not be given in circumstances where the carbon storage licence under which the exploration operator operates is one which, on the date the notice is given, the OGA would not have the power to grant.
- (7) A requirement imposed on a licensee under [subsection \(3\)\(b\)](#) is sanctionable in accordance with this Chapter.

### Commencement Information

**I13** [S. 119](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

## 120 Duty of OGA to give sanction warning notices

- (1) This section applies where the OGA proposes to give a sanction notice in respect of a failure to comply with a sanctionable requirement.
- (2) The OGA must give a sanction warning notice in respect of the sanctionable requirement to—
  - (a) the person or persons to whom it proposes to give a sanction notice, and
  - (b) where it proposes to give an operator removal notice, the relevant licensee (see [section 119\(2\)\(c\)](#)).
- (3) A sanction warning notice, in respect of a sanctionable requirement, is a notice which—
  - (a) specifies the sanctionable requirement,

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- (b) informs the person or persons to whom it is given that the OGA proposes to give a sanction notice in respect of a failure to comply with the requirement,
  - (c) gives details of the failure to comply with the sanctionable requirement, and
  - (d) informs the person or persons to whom it is given that the person or persons may, within the period specified in the notice (“the representations period”), make representations to the OGA in relation to the matters dealt with in the notice.
- (4) The representations period must be such period as the OGA considers appropriate in the circumstances.
- (5) Subsections (6) and (7) apply where the OGA gives a sanction warning notice to a person or persons in respect of a sanctionable requirement.
- (6) The OGA must not give a sanction notice to the person or persons in respect of a failure to comply with the requirement until after the end of the representations period specified in the sanction warning notice.
- (7) Having regard to representations made during the representations period specified in the sanction warning notice, the OGA may decide—
- (a) to give the person or persons a sanction notice in respect of the failure to comply with the requirement detailed in the sanction warning notice under [subsection \(3\)\(c\)](#),
  - (b) to give the person or persons a sanction notice in respect of a failure to comply with the requirement which differs from the failure detailed in the sanction warning notice under [subsection \(3\)\(c\)](#), or
  - (c) not to give the person or persons a sanction notice in respect of a failure to comply with the requirement.

#### Commencement Information

**I14** [S. 120](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

## 121 Publication of details of sanctions

- (1) The OGA may publish details of any sanction notice given in accordance with this Chapter.
- (2) But the OGA may not publish anything that, in its opinion—
- (a) is commercially sensitive,
  - (b) is not in the public interest to publish, or
  - (c) is otherwise not appropriate for publication.
- (3) If, after details of a sanction notice are published by the OGA, the sanction notice is—
- (a) cancelled on appeal, or
  - (b) withdrawn under [section 123](#),
- the OGA must publish details of the cancellation or withdrawal.

#### Commencement Information

**I15** [S. 121](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

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## 122 Subsequent sanction notices

- (1) This section applies where the OGA gives a sanction notice in respect of a particular failure to comply with a sanctionable requirement (whether the notice is given alone or at the same time as another type of sanction notice).
- (2) If the sanction notice given is a revocation notice or an operator removal notice, no further sanction notices may be given in respect of the failure to comply.
- (3) If the sanction notice given is a financial penalty notice which does not require compliance with the sanctionable requirement, no further sanction notices may be given in respect of the failure to comply.
- (4) Subsection (5) applies if the sanction notice given is—
  - (a) an enforcement notice, or
  - (b) a financial penalty notice which requires compliance with the sanctionable requirement.
- (5) No further sanction notices may be given in respect of the failure to comply before the end of the period specified under section 116(1)(c) or 117(1)(c)(i), as the case may be (period for compliance with sanctionable requirement).

### Commencement Information

**I16** S. 122 in force at 26.12.2023, see s. 334(3)(b)

## 123 Withdrawal of sanction notices

- (1) The OGA may, at any time after giving a sanction notice, withdraw the sanction notice.
- (2) If a sanction notice is withdrawn by the OGA—
  - (a) the notice ceases to have effect, and
  - (b) the OGA must notify the following persons of the withdrawal of the notice—
    - (i) the person or persons to whom the notice was given;
    - (ii) in the case of an operator removal notice, the licensee under whose carbon storage licence the exploration operator operates.

### Commencement Information

**I17** S. 123 in force at 26.12.2023, see s. 334(3)(b)

## 124 Sanctions: information powers

- (1) This section applies for the purposes of an investigation which—
  - (a) concerns whether a person has failed to comply with a sanctionable requirement, and
  - (b) is carried out by the OGA for the purpose of enabling it to decide whether to give the person a sanction notice, or on what terms a sanction notice should be given to the person.
- (2) The OGA may by notice in writing, for the purposes of that investigation, require the person to provide specified documents or other information.

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*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Chapter 5. (See end of Document for details)*

- (3) “Specified” means specified, or of a description specified, in a notice under this section.
- (4) A requirement under [subsection \(2\)](#) applies only to the extent—
- (a) that the documents requested are documents in the person’s possession or control, or
  - (b) that the information requested is information in the person’s possession or control.
- (5) A requirement imposed by a notice under [subsection \(2\)](#) is sanctionable in accordance with this Chapter.
- (6) The documents or information requested—
- (a) may include documents or information held in any form (including in electronic form);
  - (b) may include documents or information that may be regarded as commercially sensitive;
  - (c) may not include items that are subject to legal privilege.
- (7) The notice must specify—
- (a) to whom the information is to be provided;
  - (b) where it is to be provided;
  - (c) when it is to be provided;
  - (d) the form and manner in which it is to be provided.

**Commencement Information**

**I18** [S. 124](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

*General*

**125 Appeals**

In [Schedule 8](#)—

- (a) Part 1 contains provision about appeals against decisions by the OGA relating to the preparation of an information and samples plan and appeals against the giving of a notice under [section 112](#), and
- (b) Part 2 contains provision about appeals against the imposition of sanction notices and appeals against the giving of a notice under [section 124](#).

**Commencement Information**

**I19** [S. 125](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

**126 Procedure for enforcement decisions**

- (1) The OGA—
- (a) must determine the procedure that it proposes to follow in relation to enforcement decisions, and

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- (b) must issue a statement of its proposals.
- (2) The procedure mentioned in [subsection \(1\)\(a\)](#) must be designed to secure, among other things, that an enforcement decision is taken—
  - (a) by a person falling within [subsection \(3\)](#), or
  - (b) by two or more persons, each of whom falls within [subsection \(3\)](#).
- (3) A person falls within this subsection if the person was not directly involved in establishing the evidence on which the enforcement decision is based.
- (4) The statement mentioned in [subsection \(1\)\(b\)](#) must be published in whatever way appears to the OGA to be best calculated to bring the statement to the attention of the public.
- (5) When the OGA takes an enforcement decision, the OGA must follow its stated procedure.
- (6) If the OGA changes its procedure in a material way, it must publish a revised statement.
- (7) A failure of the OGA in a particular case to follow its procedure as set out in the latest published statement does not affect the validity of an enforcement decision taken in that case.
- (8) But [subsection \(7\)](#) does not prevent the Tribunal from taking into account any such failure in considering an appeal under paragraph 4 or 5 of [Schedule 8](#) in relation to a sanction notice.
- (9) In this section, “enforcement decision” means—
  - (a) a decision to give a sanction notice in respect of a failure to comply with a sanctionable requirement, or
  - (b) a decision as to the details of the sanction to be imposed by the notice.

#### **Commencement Information**

**I20** [S. 126](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

## **127 Interpretation of Chapter 5**

In this Chapter—

“information and samples plan” has the meaning given in [section 109](#);

“items subject to legal privilege”—

- (a) in England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act);
- (b) in Scotland, has the meaning given by section 412 of the Proceeds of Crime Act 2002;
- (c) in Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(NI 12\)](#));

“OGA” means the Oil and Gas Authority;

“protected material” has the meaning given in [section 113](#);

“sanction notice” has the meaning given in [section 115](#);

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“storage permit” has the same meaning as in the Storage of Carbon Dioxide (Licensing etc) Regulations 2010 (S.I. 2010/2221) (see regulation 1(3) of those Regulations);

“subsequent holder” has the meaning given in [section 113](#);

“Tribunal” means the First-tier Tribunal.

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**Commencement Information**

**I21** S. 127 in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)



**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Energy Act 2023, Chapter 5.