



# Energy Act 2023

## 2023 CHAPTER 52

### PART 4

#### NEW TECHNOLOGY

### CHAPTER 1

#### LOW-CARBON HEAT SCHEMES

#### 143 Low-carbon heat schemes

- (1) The Secretary of State may by regulations make provision for the establishment and operation of one or more low-carbon heat schemes.
- (2) A “low-carbon heat scheme” is a scheme for encouraging the supply or installation in the United Kingdom of relevant heating appliances through the imposition of low-carbon heat targets on persons to whom the scheme applies.
- (3) In this Chapter—
  - “low-carbon heat target” means a target imposed by or under scheme regulations;
  - “relevant heating appliance” means—
    - (a) a heating appliance that generates heat but is incapable of burning fossil fuels or peat to do so, or
    - (b) a heating appliance that generates heat by burning fossil fuels or peat, but does so only as part of a wider system to supplement heat from air, water or the ground.
- (4) In the definition of “relevant heating appliance” in [subsection \(3\)](#), “fossil fuel” means—
  - (a) coal,
  - (b) lignite,
  - (c) natural gas (within the meaning of the Energy Act 1976),

---

*Status: This is the original version (as it was originally enacted).*

---

- (d) crude liquid petroleum,
  - (e) petroleum products (within the meaning of that Act), or
  - (f) any substance produced directly or indirectly from a substance mentioned in paragraphs (a) to (e).
- (5) The provision made by sections 144 to 150 is without prejudice to the generality of subsection (1).
- (6) In this Chapter, “scheme regulations” means regulations under subsection (1).

#### **144 Application of scheme**

- (1) Scheme regulations that provide for the establishment of a low-carbon heat scheme must identify—
- (a) the descriptions of person to whom the scheme applies;
  - (b) the kinds of relevant heating appliance to which the scheme applies.
- (2) A person within a description identified by virtue of subsection (1)(a) is referred to in this Chapter as a “scheme participant”.
- (3) Scheme regulations may—
- (a) set low-carbon heat targets, or
  - (b) provide for low-carbon heat targets to be set in accordance with provision made by the regulations.

Section 145 contains further provision about the setting of targets.

- (4) Scheme regulations must make provision about the period or periods in relation to which low-carbon heat targets have effect.
- (5) The provision that may be made by virtue of subsection (4) includes—
- (a) provision authorising things done by a scheme participant before the first period in relation to which a low-carbon heat target has effect to be treated as done by the scheme participant during that period;
  - (b) provision authorising things done by a scheme participant during one period in relation to which a low-carbon heat target has effect to be treated instead as done by the scheme participant during a different period in relation to which such a target has effect.

#### **145 Setting of targets etc**

- (1) A low-carbon heat target may be set in whatever way, and by reference to whatever criteria, the Secretary of State considers appropriate, and may for example be set—
- (a) by reference to the carrying on of specified activities;
  - (b) as a proportion of the activities of a scheme participant that must relate to relevant heating appliances;
  - (c) by reference to the average level of energy efficiency (determined in accordance with scheme regulations) to be achieved in relation to heating appliances, or specified descriptions of heating appliances, supplied or installed by a scheme participant;
  - (d) by reference to the average carbon intensity of heat generation (determined in accordance with scheme regulations) of heating appliances, or specified

---

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

---

- descriptions of heating appliances, supplied or installed by a scheme participant;
- (e) where a scheme participant manufactures heating appliances, by specifying what proportion of those heating appliances, or of specified heating appliances, that are supplied or installed (whether or not by the scheme participant) must be relevant heating appliances.
- (2) The power to specify an activity by virtue of [subsection \(1\)\(a\)](#) includes power to specify circumstances or conditions relating to the carrying out of the activity.
- (3) In the case of a low-carbon heat target that is imposed by virtue of [subsection \(1\)\(c\)](#) or [\(d\)](#) on a scheme participant who manufactures heating appliances, the target may be set by reference to heating appliances that are supplied or installed (whether or not by the scheme participant).
- (4) Scheme regulations may confer a discretion on the Secretary of State or any other person in connection with the setting of low-carbon heat targets.
- (5) The reference in [subsection \(1\)\(d\)](#) to the carbon intensity of heat generation, in relation to an appliance, is a reference to the level of greenhouse gas emissions per unit of heat generated by the appliance.
- “Greenhouse gas emissions” means emissions of any greenhouse gas within the meaning of section 92(1) of the Climate Change Act 2008.
- (6) Scheme regulations may provide—
- (a) for different weight to be given to different kinds of appliance or different activities;
- (b) for low-carbon heat targets to be set at different levels for different kinds of appliance or different activities.
- (7) Scheme regulations may provide for specified activities to count towards the meeting of a low-carbon heat target.
- (8) In this section, “specified” means specified in scheme regulations.

#### **146 Further provision about scheme regulations**

- (1) Scheme regulations must provide for the making of determinations as to whether a scheme participant has met a low-carbon heat target imposed on the scheme participant.
- (2) Scheme regulations may make provision for monitoring the operation of a low-carbon heat scheme, and may in particular make provision about—
- (a) the keeping of records by scheme participants and others;
- (b) the provision of information by scheme participants and others;
- (c) the audit and verification of information provided by scheme participants and others.
- (3) Scheme regulations may make provision—
- (a) enabling scheme participants to pool or transfer low-carbon heat targets imposed on them;
- (b) for the issuing of certificates representing activities or appliances to which a low-carbon heat target relates;

---

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

---

- (c) enabling scheme participants to acquire certificates mentioned in [paragraph \(b\)](#) for the purpose of meeting a low-carbon heat target;
  - (d) about the keeping of records in relation to—
    - (i) the pooling or transfer of low-carbon heat targets;
    - (ii) the acquisition of certificates.
- (4) Scheme regulations may make provision—
- (a) requiring a scheme participant who fails to meet a low-carbon heat target to make a payment, before a specified deadline, of an amount specified by or determined in accordance with the regulations;
  - (b) for a payment mentioned in [paragraph \(a\)](#) to be made to the administrator (see [section 147](#)) or to such other person as the regulations may specify;
  - (c) for a person who fails to meet a low-carbon heat target to be subject to such consequences (instead of or in addition to a requirement mentioned in [paragraph \(a\)](#)) as may be specified;
  - (d) about how liability to make a payment, or to other consequences, is to be determined where low-carbon heat targets have been pooled or transferred by virtue of provision made under [subsection \(3\)\(a\)](#).
- (5) In subsection (4), “specified” means specified in scheme regulations.

#### **147 Administration of scheme**

- (1) Scheme regulations may provide for the appointment of a person as the administrator of a low-carbon heat scheme.
- (2) Scheme regulations—
- (a) may confer functions on the administrator for the purposes of the scheme;
  - (b) may authorise the administrator to arrange for another person to carry out any functions of the administrator.
- (3) The functions that may be conferred on the administrator by virtue of [subsection \(2\)](#) include, for example, functions in connection with—
- (a) setting low-carbon heat targets;
  - (b) determining whether low-carbon heat targets have been met;
  - (c) obtaining information;
  - (d) keeping records;
  - (e) requiring scheme participants to make payments to the administrator in connection with the costs of operating the scheme.
- (4) Only the following may be appointed as the administrator of a low-carbon heat scheme—
- (a) the Secretary of State;
  - (b) the Scottish Ministers;
  - (c) the Welsh Ministers;
  - (d) the Department for the Economy in Northern Ireland;
  - (e) a public authority (other than a person within any of [paragraphs \(a\) to \(d\)](#));
  - (f) any combination of the above.
- (5) More than one person may be appointed as the administrator of a low-carbon heat scheme.

- (6) Scheme regulations that appoint a public authority as the administrator of a low-carbon heat scheme may make such amendments to primary legislation as the Secretary of State considers appropriate for the purpose of enabling the authority to carry out the functions conferred on it by the regulations.
- (7) In this section, “public authority” means a person with functions of a public nature.

#### **148 Enforcement, penalties and offences**

- (1) Scheme regulations may authorise the administrator of a low-carbon heat scheme—
- (a) to require the production of documents or the provision of information;
  - (b) to question the officers of a company or other individuals;
  - (c) to enter premises with a warrant;
  - (d) to seize documents or records.
- (2) Scheme regulations may authorise the administrator of a low-carbon heat scheme, in circumstances specified in the regulations—
- (a) to treat activities of a person (A) as activities of a different person (B) for the purposes of the scheme, and
  - (b) to treat a low-carbon heat target imposed on A as if it had been imposed on B.
- (3) Scheme regulations may provide that a person is liable to one or more penalties in respect of a failure to comply with a requirement imposed on the person by or under a low-carbon heat scheme.
- (4) Where by virtue of [subsection \(3\)](#) scheme regulations provide that a person is liable to a financial penalty, the regulations—
- (a) may specify the amount of the penalty or provide for the amount of the penalty to be determined in accordance with the regulations;
  - (b) must provide for the penalty to be paid to the administrator or to such other person as the regulations may specify.
- (5) Scheme regulations may create offences for failure to comply with a requirement imposed by or under a low-carbon heat scheme.
- (6) Scheme regulations made by virtue of [subsection \(5\)](#) may provide for an offence created by the regulations to be triable—
- (a) only summarily, or
  - (b) either summarily or on indictment.
- (7) Scheme regulations made by virtue of [subsection \(5\)](#) may provide for an offence created by the regulations to be punishable with a fine.

#### **149 Application of sums paid by virtue of section 146(4) or 148(3)**

- (1) Scheme regulations may make provision about the application of amounts paid by virtue of section [146\(4\)\(a\)](#) or [148\(3\)](#).
- (2) Provision made by virtue of [subsection \(1\)](#) may require the payment of amounts into the Consolidated Fund.

## 150 Appeals

- (1) Scheme regulations that, by virtue of [section 148\(3\)](#), provide that a person is liable to a financial penalty must also provide for a person to have a right of appeal to a court or tribunal against the imposition of the penalty.
- (2) Scheme regulations may make provision about appeals against—
  - (a) decisions made by the administrator of a low-carbon heat scheme, and
  - (b) penalties imposed (other than financial penalties) or enforcement action taken for failure to comply with a requirement imposed by or under a low-carbon heat scheme.
- (3) Scheme regulations that make provision by virtue of subsection (2) must specify the court, tribunal or person who is to hear and determine an appeal made by virtue of that subsection.

## 151 Scheme regulations: procedure etc

- (1) Scheme regulations are subject to the negative procedure unless subsection (2) applies, in which case they are subject to the affirmative procedure.
- (2) This subsection applies if scheme regulations—
  - (a) establish a low-carbon heat scheme;
  - (b) extend the descriptions of person, or the kinds of relevant heating appliance, to which a low-carbon heat scheme applies;
  - (c) provide for new penalties;
  - (d) increase the amount of existing financial penalties by more than is necessary to reflect changes in the value of money;
  - (e) create an offence or increase the fine for an existing offence;
  - (f) confer new powers to enforce requirements imposed by or under a low-carbon heat scheme;
  - (g) amend primary legislation.
- (3) Scheme regulations may create exceptions to any requirement imposed by the regulations.
- (4) Before making scheme regulations that apply in relation to Scotland, Wales or Northern Ireland, the Secretary of State must give notice—
  - (a) stating that the Secretary of State proposes to make scheme regulations,
  - (b) setting out or describing the provisions of the regulations that apply in relation to Scotland, Wales or Northern Ireland, and
  - (c) 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 those provisions,and must consider any representations duly made and not withdrawn.
- (5) A notice under [subsection \(4\)](#) must be given to each relevant devolved authority, that is to say—
  - (a) the Scottish Ministers, so far as the regulations apply in relation to Scotland;
  - (b) the Welsh Ministers, so far as the regulations apply in relation to Wales;
  - (c) the Department for the Economy in Northern Ireland, so far as the regulations apply in relation to Northern Ireland.

- (6) The Secretary of State need not wait until the end of the period specified under [subsection \(4\)\(c\)](#) before making regulations if, before the end of that period, each relevant devolved authority to which the notice was given has confirmed that it has made any representations it intends to make with respect to the provisions referred to in [subsection \(4\)\(b\)](#).
- (7) The Secretary of State must, if requested to do so by a relevant devolved authority, give the authority a statement setting out whether and how representations made by the authority with respect to the provisions referred to in [subsection \(4\)\(b\)](#) have been taken into account in the regulations.

## 152 Interpretation of Chapter 1

In this Chapter—

- “low-carbon heat scheme” has the meaning given by [section 143\(2\)](#);
- “low-carbon heat target” has the meaning given by [section 143\(3\)](#);
- “primary legislation” means—
  - (a) an Act,
  - (b) an Act of the Scottish Parliament,
  - (c) a Measure or Act of Senedd Cymru, or
  - (d) Northern Ireland legislation;
- “relevant heating appliance” has the meaning given by [section 143\(3\)](#);
- “scheme participant” has the meaning given by [section 144\(2\)](#);
- “scheme regulations” has the meaning given by [section 143\(6\)](#).

## CHAPTER 2

### HYDROGEN GRID CONVERSION TRIALS

## 153 Modifications of the gas code

- (1) For the purposes of this section, “hydrogen grid conversion trial” means a scheme designated by the Secretary of State that—
  - (a) relates to a particular place or area (the “trial location”),
  - (b) is designed to gather evidence for the purpose of enabling assessments to be made about the feasibility, costs and benefits of using hydrogen for heating or cooking,
  - (c) requires the network for supplying gas to the trial location to be modified so as to enable the supply of hydrogen, and
  - (d) is intended to have effect for a definite period.
- (2) Schedule 2B to the Gas Act 1986 (the gas code) applies in relation to a hydrogen grid conversion trial—
  - (a) as if references to a gas transporter included a person (other than a gas transporter) who is conducting the trial, and
  - (b) as if it were modified in accordance with subsections [\(3\)](#) to [\(5\)](#).
- (3) Paragraph 16 (alterations etc of burners on change of calorific value) applies as if—

---

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

---

- (a) in sub-paragraph (1), the words “at a rate not exceeding 75,000 therms a year” were omitted, and
  - (b) in sub-paragraph (2), the steps required to be taken in respect of premises in the trial location also included any works required in respect of the premises (other than works already mentioned in sub-paragraph (2)) for the purposes or in consequence of the trial.
- (4) Paragraph 23 (entry of premises during supply) applies as if the power conferred by sub-paragraph (1)(a) included power to enter premises in the trial location for the purpose of inspecting anything on the premises, or carrying out any tests on the premises, in preparation for or otherwise in connection with the trial.
- (5) Paragraph 24 (entry of premises to discontinue supply) applies as if the power conferred by sub-paragraph (2) were exercisable for the purposes of the trial—
- (a) in relation to any premises in the trial location, and
  - (b) notwithstanding sub-paragraph (1).
- (6) For the purposes of the application of the Rights of Entry (Gas and Electricity Boards) Act 1954 in relation to a relevant power of entry (see paragraph 28(5) of Schedule 2B to the Gas Act 1986), the reference in section 1(2) of the 1954 Act to a gas operator includes a reference to a person (other than a gas transporter) who is conducting a hydrogen grid conversion trial.
- (7) In subsection (6), “relevant power of entry” means a power of entry conferred by Schedule 2B to the Gas Act 1986, as it applies by virtue of this section in relation to a hydrogen grid conversion trial.

## **154 Regulations for protection of consumers**

- (1) The Secretary of State may by regulations make provision—
- (a) requiring a gas transporter to take specified steps to secure that consumers in a trial location are properly informed about a hydrogen grid conversion trial being conducted in the trial location;
  - (b) requiring a gas transporter to take specified steps to secure that consumers are given adequate warning of the need for their premises to be disconnected for the purposes of a hydrogen grid conversion trial;
  - (c) about the enforcement of requirements imposed by virtue of [paragraph \(a\)](#) or [\(b\)](#).
- (2) Regulations under [subsection \(1\)](#) may confer functions on gas transporters in connection with the discharge of requirements imposed by the regulations.
- (3) The provision that may be made by virtue of [subsection \(1\)\(c\)](#) includes provision for the imposition of civil penalties in respect of a failure to comply with a requirement imposed by the regulations (but does not include provision for the creation of a criminal offence).
- (4) The Secretary of State may by regulations make provision designed to secure protection for consumers and other people who are affected, or likely to be affected, by a hydrogen grid conversion trial.
- (5) The provision that may be made by regulations under [subsection \(4\)](#) includes, for example, provision—



---

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

---

- (a) about the making of complaints about the exercise by a gas transporter of a power conferred by a relevant statutory provision;
  - (b) about the award of redress in specified circumstances;
  - (c) imposing requirements on gas transporters or other persons to provide information to consumers and others;
  - (d) for securing that consumers and others are not required to incur expenditure, or are not otherwise financially disadvantaged, as a result of a hydrogen grid conversion trial;
  - (e) for securing fair treatment of consumers and others before, during and after a hydrogen grid conversion trial;
  - (f) about the quality of products provided to consumers and others and the quality of works carried out on premises owned by consumers and others;
  - (g) about the enforcement of requirements imposed by the regulations on gas transporters or other persons.
- (6) The provision that may be made by virtue of subsection (5)(g) includes provision for the imposition of civil penalties in respect of a failure to comply with a requirement imposed by the regulations (but does not include provision for the creation of a criminal offence).
- (7) Where regulations under this section make provision for a civil penalty, they must also include provision for a right of appeal to a court or tribunal against the imposition of the penalty.
- (8) Regulations under this section are subject to the negative procedure.
- (9) In this section—
- “consumer” and “disconnected” have the same meaning as in Schedule 2B to the Gas Act 1986 (see paragraph 1(1) of that Schedule);
  - “gas transporter” means—
    - (a) a gas transporter within the meaning of Part 1 of the Gas Act 1986 (see section 7 of that Act), or
    - (b) any other person who—
      - (i) is conducting a hydrogen grid conversion trial, and
      - (ii) does not require a licence under section 7 of the Gas Act 1986 as a result of an exemption under section 6A of that Act;
  - “hydrogen grid conversion trial” and “trial location” have the same meaning as in [section 153](#);
  - “specified” means specified by regulations.

### CHAPTER 3

#### MISCELLANEOUS

##### *Hydrogen*

#### **155 Power to modify Gas Act 1986 in relation to hydrogen**

- (1) The Secretary of State may by regulations provide for any provision of the Gas Act 1986—

---

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

---

- (a) not to apply, or
  - (b) to apply with modifications specified in the regulations,  
in relation to the production, transportation, storage or use of hydrogen.
- (2) The power under [subsection \(1\)](#) may be exercised by amending the Gas Act 1986.
- (3) The power under [subsection \(1\)](#) may be exercised only for the purpose of facilitating or promoting the production, transportation, storage or use of hydrogen.
- (4) Before exercising the power under [subsection \(1\)](#), the Secretary of State must consult—
- (a) the GEMA, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (5) Regulations under [subsection \(1\)](#) are subject to the affirmative procedure.

*Fusion energy*

**156 Fusion energy facilities: nuclear site licence not required**

- (1) Section 1 of the Nuclear Installations Act 1965 (restriction of certain nuclear installations to licensed sites) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) Subsection (1) does not apply to a fusion energy facility.
- (2B) In subsection (2A), “fusion energy facility” means a site that is—
- (a) used for the purpose of installing or operating any plant designed or adapted for the production of electrical energy or heat by fusion, and
  - (b) not also used for the purpose of installing or operating a nuclear reactor.”

*Renewable and sustainable fuel*

**157 Treatment of recycled carbon fuel and nuclear-derived fuel as renewable transport fuel**

After section 131C of the Energy Act 2004 insert—

**“131D Recycled carbon fuel and nuclear-derived fuel**

- (1) An RTF order may—
- (a) designate as recycled carbon fuel a description of liquid or gaseous fuel which is produced wholly from waste derived from a fossil source of energy;
  - (b) designate as nuclear-derived fuel a description of liquid or gaseous fuel which is produced wholly using, or by a process powered wholly by, nuclear fuel.

- (2) Where a designation under subsection (1) is in force, the recycled carbon fuel or nuclear-derived fuel is to be treated for the purposes of this Chapter and any RTF order as renewable transport fuel.”

### **158 Revenue certainty scheme for sustainable aviation fuel producers: consultation and report**

- (1) The Secretary of State must carry out a public consultation on the options for designing and implementing a sustainable aviation fuel revenue certainty scheme.
- (2) A “sustainable aviation fuel revenue certainty scheme” is a scheme whose purpose is to give producers of sustainable aviation fuel greater certainty than they otherwise would have about the revenue that they will earn from sustainable aviation fuel that they produce.
- (3) The Secretary of State must open the consultation within the period of 6 months beginning with the day on which this Act is passed.
- (4) The Secretary of State must bring the consultation to the attention of, in particular, such of each of the following as the Secretary of State considers appropriate—
- (a) producers of sustainable aviation fuel;
  - (b) suppliers of sustainable aviation fuel;
  - (c) airlines.
- (5) The Secretary of State must, within the period of 18 months beginning with the day on which this Act is passed, lay before Parliament a report on progress made towards the development of a sustainable aviation fuel revenue certainty scheme.
- (6) In this section, “sustainable aviation fuel” means aviation turbine fuel whose use (as compared with the use of other aviation turbine fuel) will, in the opinion of the Secretary of State, contribute to a reduction in emissions of greenhouse gases; and for this purpose—
- “aviation turbine fuel” has the meaning given by article 3(1B) of the Renewable Transport Fuel Obligations Order 2007 (S.I. 2007/3072);
  - “greenhouse gas” has the meaning given by section 92(1) of the Climate Change Act 2008.

### **159 Renewable liquid heating fuel obligations**

- (1) The Secretary of State may by regulations subject off-grid heating fuel suppliers (or off-grid heating fuel suppliers of a particular description) to an obligation in respect of renewable liquid heating fuel that corresponds to or is similar to the obligation mentioned in section 124(2) of the Energy Act 2004 (renewable transport fuel obligation).
- (2) The regulations may, for any purpose connected with that obligation, make provision corresponding to or similar to any provision made by, or that may be made under, Chapter 5 of Part 2 of the Energy Act 2004 (powers etc relating to renewable transport fuel obligation).
- (3) Before making regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (4) Regulations under this section are subject to the affirmative procedure.

---

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

---

(5) In this section—

“off-grid heating fuel supplier” means a person who, in the course of business, supplies any—

- (a) renewable liquid heating fuel,
- (b) fossil fuel, or
- (c) other fuel, apart from solid fuel,

at or for delivery to places in Great Britain with a view to its being used wholly or mainly for the purpose of heating buildings to which there is no mains gas supply;

“renewable liquid heating fuel” means fuel that is typically supplied or stored in a liquid state and that is—

- (a) biofuel or blended biofuel, or
- (b) fuel (other than fossil fuel or nuclear fuel) produced—
  - (i) wholly by energy from a renewable source, or
  - (ii) wholly by a process powered wholly by such energy;

and “biofuel”, “blended biofuel”, “fossil fuel” and “renewable source” have the meanings given in section 132 of the Energy Act 2004.

#### *Removals of greenhouse gases*

### **160 Climate Change Act 2008: meaning of “UK removals”**

In section 29(1)(b) of the Climate Change Act 2008 (UK emissions and removals of greenhouse gases), for “land use, land-use change or forestry” substitute “processes, mechanisms or”.