
Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 7. (See end of Document for details)

SCHEDULES

SCHEDULE 7

Section 113

PERMITTED DISCLOSURES OF MATERIAL OBTAINED BY OGA

Disclosure by OGA to specified persons

- 1 (1) Section 113 does not prohibit a disclosure of protected material by the OGA which—
- (a) is made to a person mentioned in column 1 of the table below,
 - (b) is made for the purpose of facilitating the carrying out of that person's functions, and
 - (c) is a disclosure of protected material obtained by the OGA under a provision mentioned in the corresponding entry of column 2 of the table.

<i>Column 1</i>	<i>Column 2</i>
A Minister of the Crown	Section 112 or 124
His Majesty's Revenue and Customs	Section 112 or 124
The Competition and Markets Authority	Section 112 or 124
The Scottish Ministers	Section 112
The Welsh Ministers	Section 112
A Northern Ireland Department	Section 112
The Office for Budget Responsibility	Section 112
An enforcing authority	Section 112 or 124
The Statistics Board	Section 112 or 124
The GEMA	Section 112 or 124
The Crown Estate	Section 112
A manager of the Crown Estate in Scotland	Section 112

- (2) In the table—

“enforcing authority” has the same meaning as in Part 1 of the Health and Safety at Work etc Act 1974 (see section 18(7)(a) of that Act);

“manager of the Crown Estate in Scotland” means a person who for the time being is discharging functions in relation to the management of any property, rights or interests to which section 90B(5) of the Scotland Act 1998 applies;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

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- (3) [Section 113](#) does not prohibit a disclosure of protected material by the OGA which—
- (a) is a disclosure of protected material obtained by it under [section 112](#),
 - (b) is made to the Natural Environment Research Council, or any other similar body carrying on geological activities, and
 - (c) is made for the purpose of enabling the body to prepare and publish reports and surveys of a general nature using information derived from the protected material.
- (4) A person to whom protected material is disclosed by virtue of [sub-paragraph \(1\)](#) or [\(3\)](#) may use the protected material only for the purpose mentioned in [sub-paragraph \(1\)\(b\)](#) or [\(3\)\(c\)](#) (as the case may be).
- (5) [Section 113](#) does not prohibit a person mentioned in [sub-paragraph \(4\)](#) from disclosing the protected material so far as necessary for the purpose mentioned in that sub-paragraph.
- (6) The Secretary of State may by regulations amend the table in [sub-paragraph \(1\)](#)—
- (a) to remove a person from column 1,
 - (b) to add to column 1 a person to whom [sub-paragraph \(7\)](#) applies, or
 - (c) to add, remove or change entries in column 2.
- (7) This sub-paragraph applies to—
- (a) persons holding office under the Crown;
 - (b) persons in the service or employment of the Crown;
 - (c) persons acting on behalf of the Crown;
 - (d) government departments;
 - (e) publicly owned companies as defined in section 6 of the Freedom of Information Act 2000.
- (8) Regulations under [sub-paragraph \(6\)](#) are subject to the affirmative procedure.

Commencement Information

II [Sch. 7 para. 1](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

Disclosure required for returns and reports prepared by OGA

- 2 (1) [Section 113](#) does not prohibit the OGA from using protected material obtained by the OGA under [section 112](#) for the purpose of—
- (a) preparing such returns and reports as may be required under obligations imposed by or under any Act;
 - (b) preparing and publishing reports and surveys of a general nature using information derived from the protected material.
- (2) [Section 113](#) does not prohibit the OGA from disclosing protected material so far as necessary for those purposes.

Commencement Information

I2 [Sch. 7 para. 2](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

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Disclosure in exercise of certain OGA powers

- 3 **Section 113** does not prohibit a disclosure of protected material if it is made in the exercise of the OGA's powers under **section 121** (publication of details of sanctions).

Commencement Information

I3 Sch. 7 para. 3 in force at 26.12.2023, see s. 334(3)(b)

Disclosure after specified period

- 4 (1) **Section 113** does not prohibit protected material obtained by the OGA under **section 112** from being—
- (a) published, or
 - (b) made available to the public (where the protected material includes samples), by the OGA or a subsequent holder at such time as may be specified in regulations made by the Secretary of State.
- (2) Regulations under **sub-paragraph (1)** may include provision permitting protected material to be published, or made available to the public, immediately after it is provided to a person.
- (3) Before making regulations under **sub-paragraph (1)**, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (4) **Sub-paragraph (3)** does not apply if the Secretary of State is satisfied that consultation is unnecessary having regard to consultation carried out by the OGA in relation to what time should be specified in regulations under **sub-paragraph (1)**.
- (5) Regulations under **sub-paragraph (1)** are subject to the affirmative procedure.
- (6) In determining the time to be specified in respect of protected material in regulations under **sub-paragraph (1)**, the Secretary of State must have regard to the following factors—
- (a) whether the specified time will allow owners of protected material a reasonable period of time to satisfy the main purpose for which they acquired or created the material;
 - (b) any potential benefits to the carbon storage industry of protected material being published or made available at the specified time;
 - (c) any potential risk that the specified time may discourage persons from acquiring or creating carbon storage information or carbon storage samples;
 - (d) any other factors the Secretary of State considers relevant.
- (7) In balancing the factors mentioned in **sub-paragraph (6)(a) to (d)**, the Secretary of State must take into account the principal objectives of the Secretary of State set out in **section 1(1)**.
- (8) For the purposes of **sub-paragraph (6)(a)**, the owner of protected material is the person by whom, or on whose behalf, the protected material was provided to the OGA under **section 112**.

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Commencement Information

I4 Sch. 7 para. 4 in force at 26.12.2023, see s. 334(3)(b)

Disclosure with appropriate consent

- 5 (1) [Section 113](#) does not prohibit a disclosure of protected material if it is made with the appropriate consent.
- (2) For this purpose a disclosure is made with the appropriate consent if—
- (a) in the case of disclosure by the OGA, the original owner consents to the disclosure;
 - (b) in the case of disclosure by a subsequent holder—
 - (i) the OGA consents to the disclosure, and
 - (ii) where the protected material in question was provided to the OGA under [section 112](#), the OGA confirms that the original owner of the material also consents to the disclosure.
- (3) For the purposes of [sub-paragraph \(2\)](#), the original owner of protected material provided to the OGA is the person by whom, or on whose behalf, the protected material was so provided.

Commencement Information

I5 Sch. 7 para. 5 in force at 26.12.2023, see s. 334(3)(b)

Disclosure required by legislation

- 6 [Section 113](#) does not prohibit a disclosure of protected material required by virtue of an obligation imposed by or under this or any other Act.

Commencement Information

I6 Sch. 7 para. 6 in force at 26.12.2023, see s. 334(3)(b)

Disclosure for purpose of proceedings

- 7 (1) [Section 113](#) does not prohibit a disclosure of protected material by the OGA for the purposes of, or in connection with—
- (a) civil proceedings, or
 - (b) arbitration proceedings.
- (2) [Section 113](#) does not prohibit a disclosure of protected material by the OGA for the purposes of, or in connection with—
- (a) the investigation or prosecution of criminal offences, or
 - (b) the prevention of criminal activity.

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Commencement Information

I7 Sch. 7 para. 7 in force at 26.12.2023, see **s. 334(3)(b)**

Changes to legislation:

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