



# Energy Act 2023

## 2023 CHAPTER 52

### PART 1

#### LICENSING OF CARBON DIOXIDE TRANSPORT AND STORAGE

### CHAPTER 2

#### FUNCTIONS WITH RESPECT TO COMPETITION

#### **38** Sections 36 and 37: supplementary

- (1) Before the CMA or the economic regulator first exercises in relation to any matter functions which are exercisable concurrently by virtue of [section 36\(1\)](#) or [37\(1\)](#), it must consult the other.
- (2) Neither the CMA nor the economic regulator is to exercise in relation to any matter functions which are exercisable concurrently by virtue of [section 36\(1\)](#) or [37\(1\)](#) if functions which are so exercisable have been exercised in relation to that matter by the other.
- (3) If any question arises as to whether [section 36\(1\)](#) or [37\(1\)](#) applies to any particular case, that question is to be referred to and determined by the Secretary of State, and no objection may be taken to anything done under—
  - (a) Part 4 of the Enterprise Act 2002, or
  - (b) Part 1 of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6), 40B(1) to (4) and 51),by or in relation to the economic regulator on the ground that it should have been done by or in relation to the CMA.
- (4) In sections 36 and 37 “relevant storage and transport activities” means—
  - (a) activities such as are mentioned in [section 2\(2\)](#), and
  - (b) activities ancillary to such activities.

---

**Status:** Point in time view as at 26/12/2023.

**Changes to legislation:** There are currently no known outstanding effects  
for the Energy Act 2023, Section 38. (See end of Document for details)

---

---

**Commencement Information**

**II** [S. 38](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

**Status:**

Point in time view as at 26/12/2023.

**Changes to legislation:**

There are currently no known outstanding effects for the Energy Act 2023, Section 38.