
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations form part of the implementation by the United Kingdom of Directive [2009/31/EC](#) of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide (OJ No L 140, 5.6.2009, p.114) (“the Directive”).

The Regulations extend the territorial scope of Part 1, Chapter 3, of the Energy Act 2008 (c. 32) (“the Act”) to all parts of England, Wales, Northern Ireland and their internal waters. As enacted, that Chapter applied to the United Kingdom territorial sea and the Gas Importation and Storage Zone referred to in section 1 of the Act (designated by [S.I. 2009/223](#)). The Regulations also implement Article 31 of the Directive which amends Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment (OJ No L 175, 5.7.1985, p. 40).

The extension of Part 1 to all parts of Scotland and its internal waters is made by the Energy Act 2008 (Storage of Carbon Dioxide) (Scotland) Regulations 2011 ([S.S.I. 2011/224](#)) (the “Scottish Regulations”).

Regulation 2 adds to the definition of a “controlled place” under section 17 of the Act, so that it also includes England, Wales, Northern Ireland and places in, under and over the adjacent internal waters.

Under *regulation 3*, section 18 of the Act is amended. The Department of Enterprise, Trade and Investment in Northern Ireland will have functions under Chapter 3 in respect of Northern Ireland and the adjacent internal waters. The Welsh Ministers will have functions under Chapter 3 in respect of Wales and the adjacent internal waters. The Secretary of State will have functions under Chapter 3 in respect of England and the adjacent internal waters as well as his existing functions in respect of the territorial sea of the United Kingdom (except the territorial sea adjacent to Scotland) and the Gas Importation and Storage Zone. Where a carbon storage activity takes place partly in an area for which one licensing authority is responsible and partly in another area, provision is made to allow either of the relevant licensing authorities to exercise functions under Chapter 3 in respect of that activity.

Sections 19, 21, 23(1) and 31 of the Act confer powers on a licensing authority to make subordinate legislation about licences. *Regulations 4, 5, 7 and 12* amend those sections to provide that the Department of Enterprise, Trade and Investment in Northern Ireland and the Welsh Ministers, as licensing authorities, do not have power under those sections to make such subordinate legislation.

Regulation 6 amends section 22, to modify the penalties that can be imposed on summary conviction further to the extension of the territorial scope of Part 1 under the amended section 17.

Regulations 8, 9, 10, 11 and 13 make consequential amendments.

Under *regulation 14*, the [Pipe-line Works \(Environmental Impact Assessment\) Regulations 2000 \(S.I. 2000/1928\)](#) are amended to include pipelines for the conveyance of carbon dioxide in the definition of “relevant pipe-lines” in respect of which an environmental impact assessment is required.

Regulation 15 requires the Secretary of State to review the operation and effect of these Regulations and lay a report before Parliament within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Ricki Kiff, Energy Development Unit, Department of

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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A Transposition Note setting out how these Regulations implement the relevant provisions of the Directive is annexed to the Explanatory Memorandum that is available alongside the instrument on www.legislation.gov.uk.