

**2011 No. 224**

**ENVIRONMENTAL PROTECTION**

**The Energy Act 2008 (Storage of Carbon Dioxide) (Scotland)  
Regulations 2011**

*Made* - - - - *17th March 2011*

*Coming into force* - - *1st April 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

In accordance with paragraph 2(2) of Schedule 2 to that Act, a draft of the Regulations has been laid before and approved by resolution of the Scottish Parliament.

**Citation and commencement**

1. These Regulations may be cited as the Energy Act 2008 (Storage of Carbon Dioxide) (Scotland) Regulations 2011 and come into force on 1st April 2011.

**Amendment of the Energy Act 2008**

2.—(1) The Energy Act 2008(b) is amended in accordance with this regulation.

(2) In section 17 (prohibition on unlicensed activities), after subsection (3) insert—

“(4) In relation to Scotland, “controlled place” includes—

- (a) a place in Scotland, or
- (b) a place within the seaward limits of the territorial sea adjacent to Scotland.”

(3) In section 18 (licences)—

- (a) in subsection (2)(a), for “in, under or over the territorial sea adjacent to Scotland” substitute “a Scottish controlled place”;
- (b) in subsection (2)(b), for “controlled place which is in, under or over that territorial sea” substitute “Scottish controlled place”;
- (c) in subsection (2)(c), for “that territorial sea” substitute “the territorial sea adjacent to Scotland”; and
- (d) after subsection (4) insert—

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(a) 1972 c. 68 (“the 1972 Act”). Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46) (“the 1998 Act”), section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). The functions conferred on the Minister of the Crown under section 2(2) of the 1972 Act, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) 2008 c.32.

- “(5) In this section, “Scottish controlled place” means—
- (a) a controlled place in Scotland, or
  - (b) a controlled place within the seaward limits of the territorial sea adjacent to Scotland.”.
- (4) In section 22 (offence to carry on unlicensed activities), after subsection (4) insert—
- “(5) If the activity constituting the offence is carried out in a Scottish controlled place other than a place within the area of the territorial sea, subsection (3)(a) has effect as if the reference to £50,000 were a reference to £5,000.”.
- (5) In section 26(1) (injunctions restraining breaches of section 17(1)) for “controlled place in, under or over the territorial sea adjacent to Scotland” substitute “Scottish controlled place”.
- (6) In section 35(1) (Chapter 3: interpretation)—
- (a) in the definition of “controlled place”, after “17(3)” insert “and (4)”; and
  - (b) after the definition of “licensing authority” insert—
- ““Scottish controlled place” has the meaning given by section 18(5).”

*JIM MATHER*  
Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
17th March 2011

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend Chapter 3 of Part 1 of the Energy Act 2008 (“the Act”) as part of the implementation of Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide (O.J. L 140, 5.6.2009, p.114).

Regulation 2(2) amends section 17 of the Act, so that the prohibition on the storage of carbon dioxide, and related activities, without a licence is extended to include all parts of Scotland landward of the Scottish territorial sea (“the landward area”).

Regulation 2(3) makes corresponding amendments to section 18 of the Act to provide that the Scottish Ministers are the licensing authority for the extended area.

Regulation 2(4) amends section 22 of the Act to modify the penalties that can be imposed on summary conviction for offences committed in the landward area.

Regulation 2(5) makes a consequential amendment to section 26 of the Act, which deals with interdict.

A Business and Regulatory Impact Assessment has not been prepared for this instrument because it has no impact on the cost of business.

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