



# Energy Act 2008

## 2008 CHAPTER 32

### PART 1

#### GAS IMPORTATION AND STORAGE

### CHAPTER 3

#### STORAGE OF CARBON DIOXIDE

#### *Miscellaneous*

### 32 Safety zones

Sections 21, 23 and 24 of the Petroleum Act 1987 (c. 12) (safety zones) apply in relation to a carbon storage installation as they apply in relation to an installation within section 21(1) of that Act.

#### **Commencement Information**

**II** S. 32 in force at 6.4.2009 by [S.I. 2009/45, art. 4\(a\)\(ii\)](#)

### 33 Enhanced petroleum recovery: power to make orders

- (1) The use of carbon dioxide, in a controlled place, for a purpose ancillary to getting petroleum is to be regarded as—
- (a) an activity within section 17(2), or
  - (b) the storage of gas for the purposes of section 1(3)(b),
- only in the circumstances specified by the Secretary of State by order.

[<sup>F1</sup>(1A) Before making an order under subsection (1), the Secretary of State must consult the OGA.]

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- (2) Subsection (1) and orders made under it are without prejudice to Part 1 of the Petroleum Act 1998 (c. 17).
- (3) An order under subsection (1) may provide that the use of carbon dioxide, in a designated place, for a purpose ancillary to getting petroleum is to be regarded, for the purposes of this Chapter, as the use of carbon dioxide in a controlled place for such a purpose.
- (4) A designated place means a place designated by the order which is a place in, under or over waters in an area designated under section 1(7) of the Continental Shelf Act 1964 (c. 29), other than waters in a Gas Importation and Storage Zone.
- (5) In this section “petroleum” has the meaning given by section 1 of the Petroleum Act 1998 (c. 17).

#### Textual Amendments

**F1** S. 33(1A) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 1 para. 61](#); S.I. 2016/920, reg. 2(a)

#### Commencement Information

**I2** S. 33 in force at 6.4.2009 by [S.I. 2009/45](#), [art. 4\(a\)\(ii\)](#)

### 34 Power of Secretary of State etc to transfer functions

- (1) The Secretary of State may by order transfer to a public body any function conferred on the Secretary of State by or under this Chapter, other than a power to make regulations or an order.
- (2) A function transferred by an order under subsection (1) reverts to the Secretary of State if the order is revoked.
- (3) An order under subsection (1) may—
  - (a) transfer different functions to different bodies;
  - (b) transfer functions to a body in respect of all activities within section 17(2) or only specified activities;
  - (c) transfer the same function to different bodies in respect of different activities;
  - (d) transfer functions to different bodies in respect of different places.
- (4) An order under subsection (1) may—
  - (a) provide for the Secretary of State to make payments to a body to which a function has been transferred in respect of the body's expenditure in connection with the exercise of the function;
  - (b) require any fee paid to such a body under this Chapter to be paid into the Consolidated Fund;
  - (c) make such modifications of section 188 of the Energy Act 2004 (c. 20) (power to impose charges to fund energy functions), or any regulations made under that section, as the Secretary of State considers appropriate in consequence of the transfer of a function by virtue of this section.
- (5) The Secretary of State may give a direction to a body to which functions have been transferred under subsection (1) about—

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- (a) whether, or in what circumstances, a function specified in the direction is to be carried out;
  - (b) the manner in which a function specified in the direction is to be carried out.
- (6) A direction under subsection (5) may be general or specific.
- (7) The Secretary of State may not give a direction under subsection (5) without first consulting the body to which the Secretary of State proposes to give the direction.
- (8) This section applies in relation to the Scottish Ministers and any functions conferred on them by or under this Chapter as it applies in relation to the Secretary of State and any functions conferred on the Secretary of State by or under this Chapter, except that—
- (a) in its application to the Scottish Ministers the reference in subsection (4)(b) to the Consolidated Fund is to be read as a reference to the Scottish Consolidated Fund, and
  - (b) the reference in that subsection to section 188 of the Energy Act 2004 (c. 20) is to be read as a reference to that section as applied and modified by subsection (12) (inserted by paragraph 13(e) of Schedule 1 to this Act).

#### Commencement Information

**I3** S. 34 in force at 6.4.2009 by [S.I. 2009/45](#), [art. 4\(a\)\(ii\)](#)

### [<sup>F2</sup>34A Cooperation with economic regulator

- (1) This section applies where a licence holder also holds a relevant licence.
- (2) The licensing authority who granted the licence to the licence holder must provide such assistance as the economic regulator may reasonably require in carrying out its functions in relation to the relevant licence.
- (3) The licensing authority must, in particular, inform the economic regulator if it becomes aware of—
  - (a) circumstances that have arisen, or are likely to arise, in relation to the activities authorised by the licence which, in the opinion of the licensing authority, could affect the carrying on of activities authorised by the relevant licence;
  - (b) circumstances that have arisen, or are likely to arise, in which the licence or a storage permit granted under the licence may be terminated.
- (4) In this section—
  - “economic regulator” has the same meaning as in Part 1 of the Energy Act 2023 (see section 55 of that Act);
  - “relevant licence” means a licence under section 7 of the Energy Act 2023;
  - “storage permit” means a storage permit within the meaning of—
    - (a) regulation 1(3) of the Storage of Carbon Dioxide (Licensing etc) Regulations 2010 ([S.I. 2010/2221](#)), or
    - (b) regulation 1(3) of the Storage of Carbon Dioxide (Licensing etc) (Scotland) Regulations 2011 ([S.S.I. 2011/24](#)).

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**Textual Amendments**

**F2** Ss. 34A, 34B inserted (26.12.2023) by Energy Act 2023 (c. 52), ss. 53(1), 334(3)(a)

**34B Information sharing with economic regulator**

- (1) A licensing authority may provide information relating to a licence or a storage permit granted under a licence to the economic regulator for the purpose of enabling or facilitating the exercise of the economic regulator’s functions in relation to a relevant licence.
- (2) Except as provided by subsection (3), the disclosure of information under this section does not breach—
  - (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (3) This section does not authorise or require a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, the power conferred by subsection (1) is to be taken into account).
- (4) In this section—
  - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
  - “economic regulator”, “relevant licence” and “storage permit” have the same meaning as in section 34A;
  - “information” includes advice.]

**Textual Amendments**

**F2** Ss. 34A, 34B inserted (26.12.2023) by Energy Act 2023 (c. 52), ss. 53(1), 334(3)(a)

**Changes to legislation:**

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