



# Energy Act 2023

## 2023 CHAPTER 52

### PART 2

#### CARBON DIOXIDE CAPTURE, STORAGE ETC AND HYDROGEN PRODUCTION, TRANSPORT AND STORAGE

### CHAPTER 2

#### DECOMMISSIONING OF CARBON STORAGE INSTALLATIONS

##### *Financing of costs of decommissioning etc*

## 92 Financing of costs of decommissioning etc

- (1) The Secretary of State may by regulations make provision for requiring relevant persons to provide security for the performance of obligations relating to the future abandonment or decommissioning of carbon dioxide-related sites, pipelines or installations.
- (2) For the purposes of [subsection \(1\)](#) an installation, site or pipeline is “carbon dioxide-related” if it is, or is to be, used for a purpose related to the geological storage, or transportation, of carbon dioxide.
- (3) In this section references to an installation, site or pipeline include one that is located in, under or over—
  - (a) the territorial sea adjacent to the United Kingdom, or
  - (b) waters in a Gas Importation and Storage Zone (within the meaning given by section 1 of the Energy Act 2008).
- (4) The following provisions of this section are without prejudice to the generality of [subsection \(1\)](#).
- (5) In this section “relevant person” means a person who—

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- (a) holds a licence under [section 7](#), or
  - (b) is a person to whom a notice has been, or may be, given under section 29 of the Petroleum Act 1998 (preparation of abandonment programmes) in respect of a carbon storage installation.
- (6) Regulations under [subsection \(1\)](#) may—
- (a) require relevant persons to provide the Secretary of State with estimates of costs that are likely to be incurred in connection with obligations such as are mentioned in subsection (1) (“decommissioning costs”);
  - (b) make provision about the estimation of decommissioning costs and about the manner in which such estimates are to be verified (which may include provision requiring verification by an independent third party);
  - (c) require relevant persons to review estimates of decommissioning costs at times, or at intervals, specified in the regulations;
  - (d) make provision about the approval by the Secretary of State of estimates of such costs;
  - (e) provide for information specified, or of a description specified, in the regulations to be supplied to the Secretary of State by relevant persons at such intervals, or on such occasions, as may be prescribed by the regulations;
  - (f) require the Secretary of State to consult the Oil and Gas Authority or any other person specified in the regulations before exercising functions by virtue of [paragraph \(d\)](#).
- (7) Regulations under [subsection \(1\)](#) may make provision—
- (a) requiring that security for the discharge of liabilities in respect of decommissioning costs must be provided by way of a fund (a “decommissioning fund”);
  - (b) about the management of decommissioning funds;
  - (c) about payments to a relevant person, or another person, from such funds;
  - (d) providing for payments from such funds to be subject to the approval of the Secretary of State;
  - (e) imposing on a relevant authority functions with regard to—
    - (i) the monitoring and oversight of decommissioning funds;
    - (ii) the approval of any matter relating to such a fund.
- (8) This section is without prejudice to the breadth of subsection (4) of section 30 of the Energy Act 2008.
- (9) Regulations under subsection (1) may require the Secretary of State to publish guidance about—
- (a) estimates of decommissioning costs (including factors which it may be appropriate to consider in deciding whether or not to approve estimates of such costs);
  - (b) the structure, accrual and management of decommissioning funds.
- (10) Guidance by virtue of this section may make different provision for different cases or circumstances.
- (11) In this section—
- “carbon storage installation” has the same meaning as in section 30 of the Energy Act 2008;

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“decommissioning costs” is to be interpreted in accordance with subsection (6)(a);

“decommissioning fund” is to be interpreted in accordance with subsection (7)(a);

“economic regulator” has the same meaning as in Part 1 (see section 55);

“geological storage” has the same meaning as in Part 1 (see section 55);

“relevant authority” means the Secretary of State, the economic regulator or the Oil and Gas Authority.

#### Commencement Information

**II** S. 92 in force at 26.12.2023, see s. 334(3)(b)

### 93 Section 92: supplementary

- (1) Regulations under section 92(1) may make provision—
  - (a) enabling a relevant authority to charge fees to relevant persons in order to cover the costs of the exercise of the authority’s functions under the regulations;
  - (b) about how fees payable by virtue of the regulations are to be determined;
  - (c) about when fees payable by virtue of the regulations are to be paid.
- (2) Regulations under section 92(1) may make provision about the supplying of information, including—
  - (a) provision for the Secretary of State to require any other person to supply information to the Secretary of State for the purposes of the Secretary of State’s functions under regulations under that section;
  - (b) about the sharing by the Secretary of State with the Oil and Gas Authority or the economic regulator of information about funds established as mentioned in section 92(7)(a).
- (3) Regulations under section 92(1) may make provision about compliance with requirements imposed by or under the regulations, including—
  - (a) provision imposing civil penalties;
  - (b) provision making it an offence to contravene specified provisions of the regulations.
- (4) Where regulations under section 92(1) provide for the imposition of a civil penalty, they must also provide for a right of appeal against the imposition of the penalty.
- (5) Where regulations under section 92(1) create an offence, they must also make provision as to the mode of trial and punishment of offences, but—
  - (a) any provision as to punishment on summary conviction must not authorise imprisonment or, in the case of summary conviction in Scotland or Northern Ireland, a fine exceeding the statutory maximum;
  - (b) any provision as to punishment on conviction on indictment must not authorise imprisonment for a term exceeding 2 years.
- (6) Regulations under section 92(1) may—
  - (a) make different provision for different purposes;
  - (b) create exceptions to any requirement imposed by the regulations.

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- (7) Regulations under [section 92\(1\)](#) may confer any function on any person.
- (8) Regulations under [section 92\(1\)](#) may provide for a function conferred on a person to be exercisable on that person’s behalf by another person.
- (9) In this section—  
     “economic regulator” has the same meaning as in [Part 1](#) (see [section 55](#));  
     “relevant authority” means the Secretary of State, the economic regulator or the Oil and Gas Authority;  
     “relevant person” has the same meaning as in [section 92](#).
- (10) Regulations under [section 92\(1\)](#) may make any amendments of—  
     (a) the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010 ([S.I. 2010/2221](#)),  
     (b) the Storage of Carbon Dioxide (Licensing etc.) (Scotland) Regulations 2011 ([S.S.I. 2011/24](#)),  
     (c) the Storage of Carbon Dioxide (Termination of Licences) Regulations 2011 ([S.I. 2011/1483](#)), or  
     (d) the Storage of Carbon Dioxide (Licensing etc.) Regulations (Northern Ireland) 2015 ([S.R. \(N.I.\) 2015 No. 387](#)),  
 that the Secretary of State considers appropriate in consequence of, or of provision made under, [section 92](#) or this section.
- (11) Regulations under [section 92\(1\)](#) containing any of the following (with or without other provision) are subject to the affirmative procedure—  
     (a) provision creating a criminal offence;  
     (b) provision creating a civil penalty.
- (12) Any other regulations under [section 92\(1\)](#) are subject to the negative procedure.

**Commencement Information**

**I2** [S. 93](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

**94 Regulations under [section 92\(1\)](#): procedure with devolved authorities**

- (1) Before making regulations under [section 92\(1\)](#) that contain provision within devolved competence, the Secretary of State must give notice to each relevant devolved authority—  
     (a) stating that the Secretary of State proposes to make regulations under [section 92\(1\)](#), and  
     (b) specifying the period (of not less than 28 days from the date on which the notice is given) within which representations may be made with respect to the provision within the relevant devolved competence,  
 and must consider any representations duly made and not withdrawn.
- (2) In this section, “relevant devolved authority”, in relation to regulations, means—  
     (a) the Scottish Ministers, if the regulations contain provision within Scottish devolved competence;

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- (b) the Welsh Ministers, if the regulations contain provision within Welsh devolved competence;
  - (c) the Department for the Economy in Northern Ireland, if the regulations contain provision within Northern Ireland devolved competence;
- and “the relevant devolved competence”, in relation to a relevant devolved authority, is to be construed accordingly.

(3) For the purposes of this section, provision—

- (a) is within Scottish devolved competence if it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
- (b) is within Welsh devolved competence if it would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
- (c) is within Northern Ireland devolved competence if it—
  - (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
  - (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998;

and references to provision being within devolved competence are to provision that is within Scottish, Welsh or Northern Ireland devolved competence.

**Commencement Information**

**I3** S. 94 in force at 26.12.2023, see s. 334(3)(b)

*Abandonment of carbon storage installations etc*

**95 Provisions relating to Part 4 of the Petroleum Act 1998**

(1) Section 30 of the Energy Act 2008 (abandonment of installations) is amended in accordance with subsections (2) to (6).

(2) In subsection (1), for “, (2)” substitute “to (2)”.

(3) After subsection (1A) insert—

“(1AA) Part 4 of the 1998 Act, in its application in relation to carbon storage installations, has effect with the modifications set out in [subsection \(1AB\)](#).”

(1AB) The modifications are as follows—

(a) in section 30 of the 1998 Act, for subsections (5) and (6) substitute—

“(5) This subsection applies to a person in relation to a carbon storage installation if—

(a) the person has the right—

(i) to use a controlled place for the storage of carbon dioxide (with a view to its permanent

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- disposal, or as an interim measure prior to its permanent disposal),
- (ii) to convert any natural feature in a controlled place for the purpose of storing carbon dioxide (with a view to its permanent disposal, or as an interim measure prior to its permanent disposal), or
- (iii) to explore a controlled place with a view to, or in connection with, the carrying on of the activities within [sub-paragraph \(i\)](#) or [\(ii\)](#), and
- (b) either—
- (i) any activity mentioned in [subsection \(6\)](#) is carried on from, by means of or on the installation, or
- (ii) the person intends to carry on an activity mentioned in that subsection from, by means of or on the installation,
- or if the person had such a right when any such activity was last so carried on.
- (6) The activities referred to in [subsection \(5\)](#) are—
- (a) the use of a controlled place for the storage of carbon dioxide (with a view to its permanent disposal, or as an interim measure prior to its permanent disposal) in the exercise of the right mentioned in [subsection \(5\)\(a\)](#);
- (b) the conversion of any natural feature in a controlled place for the purpose of storing carbon dioxide (with a view to its permanent disposal, or as an interim measure prior to its permanent disposal) in the exercise of the right mentioned in [subsection \(5\)\(a\)](#);
- (c) the exploration of a controlled place in the exercise of the right mentioned in [subsection \(5\)\(a\)](#) with a view to, or in connection with, the carrying on of activities within [paragraph \(a\)](#) or [\(b\)](#) of this subsection;
- (d) the conveyance in the controlled place mentioned in [subsection \(5\)\(a\)](#) of carbon dioxide by means of a pipe or system of pipes, in the exercise of the right mentioned in [subsection \(5\)\(a\)](#); and
- (e) the provision of accommodation for persons who work on or from an installation which is or has been maintained, or is intended to be established, for the carrying on of an activity falling within any of paragraphs [\(a\)](#) to [\(d\)](#) of this subsection.”;
- (b) in section 30(7) of that Act, in the words before paragraph (a), for “(c)” substitute “(e)”;
- (c) in section 31 of that Act, for subsection (B1) substitute—
- “(B1) This subsection applies to an activity if—
- (a) where the activity is within [paragraph \(a\)](#), [\(b\)](#) or [\(c\)](#) of section 30(6), the controlled place mentioned in

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- that paragraph is one for which the installation is, or is to be, established or maintained;
- (b) where the activity is within [paragraph \(d\)](#) of section 30(6), the conveyance of the carbon dioxide relates to a controlled place for which the installation is, or is to be, established;
- (c) where the activity is within [paragraph \(e\)](#) of section 30(6), the installation is in a controlled place in respect of which P has a licence under section 18 of the Energy Act 2008.”;
- (d) in section 31 of that Act, omit subsection (C1);
- (e) in section 45 of that Act, in the appropriate place insert—  
““controlled place” has the same meaning as in section 17 of the Energy Act 2008;”.”
- (4) After subsection (4A) insert—  
“(4B) The powers in subsections (2)(b) and (4) include power to amend or repeal subsections (1AA) and (1AB).”
- (5) In subsection (5), for the words from “falling” to the end substitute “which is or has been maintained, or is intended to be established, for the purposes of an activity mentioned in section 17(2)(a), (b) or (c) to which subsection (6) applies.”
- (6) In subsection (6), for the words from the beginning to “it” substitute “This subsection applies to any activity which is carried on from, by means of or on an installation which”.
- (7) The power of the Scottish Ministers under section 30(2)(b) of the Energy Act 2008 to modify Part 4 of the Petroleum Act 1998 in its application to certain carbon storage installations includes power to make any modifications of that Part of that Act (in its application to the installations in question) that the Scottish Ministers consider appropriate in consequence of provision made by or under section [92](#) or [93](#).
- (8) The power of the Secretary of State under section 30(4) of the Energy Act 2008 to modify Part 4 of the Petroleum Act 1998 in its application to certain carbon storage installations includes power to make any modifications of that Part of that Act (in its application to the installations in question) that the Secretary considers appropriate in consequence of provision made by or under section [92](#) or [93](#).
- (9) In section 29 of the Petroleum Act 1998 (preparation of programmes), in subsection (6), for the words from “in question,” to the end substitute “in question if the Secretary of State has under section 32—  
(a) rejected that programme, or  
(b) approved it (whether or not the approval has been withdrawn).”
- (10) Section 38A of the Petroleum Act 1998 (protection of funds set aside for the purposes of abandonment programme) has effect as if the reference in subsection (1) of that section to the performance of obligations under an approved abandonment programme included a reference to the meeting of liabilities in respect of decommissioning costs in relation to carbon storage installations.
- (11) In this section—

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“carbon storage installation” has the same meaning as in section 30 of the Energy Act 2008;

“decommissioning costs” has the meaning given by [section 92](#).

**Commencement Information**

**I4** [S. 95](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

*Change of use relief*

**96 Change of use relief: installations**

(1) Section 30A of the Energy Act 2008 (installations converted for CCS demonstration projects) is amended as follows.

(2) For the heading substitute “Change of use relief for certain installations”.

(3) In subsection (1), for “by order” insert “, on an application made by a relevant person, by notice”.

(4) Omit subsections (2) and (3).

(5) Before subsection (4) insert—

“(3A) The Secretary of State must consult the Oil and Gas Authority before deciding—

- (a) whether to designate an installation under subsection (1);
- (b) whether to make a certification under subsection (5)(b).”

(6) For subsection (4) substitute—

“(4) An eligible CCS installation qualifies for change of use relief if—

- (a) the Secretary of State has given a CCS-related abandonment programme notice to a person in relation to the abandonment of the installation, and
- (b) the trigger event has occurred in relation to the installation.

(4A) In subsection (4) “CCS-related abandonment programme notice” means an abandonment programme notice given under section 29 of the 1998 Act in that section’s application in relation to carbon storage installations (by virtue of section 30 of this Act).”

(7) For subsection (5) substitute—

“(5) The trigger event occurs in relation to an eligible CCS installation when—

- (a) a decommissioning fund (as defined in section [92\(7\)](#) of the Energy Act 2023) has been established for providing security for the discharge of liabilities in respect of decommissioning costs in relation to the installation, and
- (b) the Secretary of State certifies by notice in writing (an “approval notice”) that one or more relevant persons have paid into the fund an amount or amounts the total of which is not less than the required amount.

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(5A) In [subsection \(5\)](#)—

- (a) “relevant person” means a person of a description specified in regulations made by the Secretary of State;
- (b) “the required amount” means an amount determined by the Secretary of State in accordance with regulations made by the Secretary of State.

(5B) Where the Secretary of State gives an approval notice in relation to an eligible CCS installation the Secretary of State must—

- (a) give a copy of the approval notice to every person to whom a notice has been given under section 29(1) of the 1998 Act in relation to the installation, and
- (b) publish a notice that—
  - (i) specifies the installation, and
  - (ii) states that the Secretary of State has given an approval notice under subsection (5)(b) in relation to it.”

(8) In subsection (11), for “an order made” substitute “a notice given”.

(9) After subsection (11) insert—

“(11A) The Secretary of State must publish a notice given under subsection (1).”

(10) In subsection (12)—

- (a) for ““CCS demonstration project” and “commercial electricity generation” have the same meanings” substitute “has the same meaning”;
- (b) omit the definition of “carbon storage facility”;
- (c) at the appropriate places insert—
  - ““decommissioning costs” has the meaning given by [section 92](#) of the Energy Act 2023;”;
  - ““relevant person” means a person to whom a notice may be given under section 29(1) of the 1998 Act in relation to an offshore installation (within the meaning given by section 44 of the 1998 Act);”.

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#### Commencement Information

**I5** [S. 96](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

## 97 Change of use relief: carbon storage network pipelines

(1) Section 30B of the Energy Act 2008 (submarine pipelines converted for CCS demonstration projects) is amended as follows.

(2) For the heading substitute “Change of use relief: carbon storage network pipelines”.

(3) For “CCS pipeline”, in each place it occurs, substitute “carbon storage network pipeline”.

(4) In subsection (1), for “by order” insert “, on an application made by a relevant person, by notice”.

(5) After subsection (1) insert—

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“(1A) The Secretary of State must consult the Oil and Gas Authority before deciding—

- (a) whether to designate a pipeline under subsection (1);
- (b) whether to make a certification under subsection (3)(b).”

(6) For subsection (2) substitute—

“(2) An eligible carbon storage network pipeline qualifies for change of use relief if—

- (a) the Secretary of State has given a CCS-related abandonment programme notice to a person in relation to the abandonment of the pipeline, and
- (b) the trigger event has occurred in relation to the pipeline.

(2A) In subsection (2) “CCS-related abandonment programme notice” means an abandonment programme notice under section 29 of the 1998 Act given at a time when the pipeline is used, or is to be used wholly or mainly—

- (a) for the purpose of disposing of carbon dioxide by way of geological storage, or
- (b) as a licensable means of transportation.”

(7) For subsection (3) substitute—

“(3) The trigger event occurs in relation to an eligible carbon storage network pipeline when—

- (a) a decommissioning fund (as defined in section 92(7) of the Energy Act 2023) has been established for providing security for the discharge of liabilities in respect of decommissioning costs in relation to the pipeline, and
- (b) the Secretary of State certifies by notice in writing (an “approval notice”) that one or more relevant persons have paid into the fund an amount or amounts the total of which is not less than the required amount.

(3A) In [subsection \(3\)](#)—

- (a) “relevant person” means a person of a description specified in regulations made by the Secretary of State;
- (b) “the required amount” means an amount determined by the Secretary of State in accordance with regulations made by the Secretary of State.

(3B) Where the Secretary of State gives an approval notice in relation to an eligible carbon storage network pipeline, the Secretary of State must—

- (a) give a copy of the approval notice to every person to whom a notice has been given under section 29(1) of the 1998 Act in relation to the pipeline, and
- (b) publish a notice that—
  - (i) specifies the pipeline, and
  - (ii) states that the Secretary of State has given an approval notice under [subsection \(3\)\(b\)](#) in relation to it.”

(8) In subsection (6), for “an order made” substitute “a notice given”.

(9) After subsection (6) insert—

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“(6A) The Secretary of State must publish a notice given under subsection (1).”

(10) In subsection (7)—

- (a) for “and “CCS demonstration project” have the same meanings” substitute “has the same meaning”;
- (b) omit the definition of “carbon storage facility”;
- (c) at the appropriate places insert—
  - ““decommissioning costs” has the meaning given by [section 92](#) of the Energy Act 2023;”;
  - “““geological storage”, in relation to carbon dioxide, has the same meaning as in [Part 1](#) of the Energy Act 2023 (see [section 55](#) of that Act);”;
  - “““licensable means of transportation” has the meaning given by [section 2\(3\)](#) of the Energy Act 2023;”;
  - “““relevant person” means a person to whom a notice may be given under [section 29\(1\)](#) of the 1998 Act in relation to a submarine pipeline;”.

#### Commencement Information

**I6** [S. 97](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

## 98 Change of use relief: supplementary

(1) In the Energy Act 2008, after section 30B insert—

### “30C Relief under sections 30A and 30B: supplementary

- (1) The Secretary of State may by regulations make provision about the obtaining of information required, and sharing of information held, for the purposes of functions of the Secretary of State under sections 30A and 30B, including provision—
  - (a) for the Secretary of State to require the holder of a licence under [section 7](#) of the Energy Act 2023, or a person who qualifies for change of use relief under section 30A or 30B, to provide information to the Secretary of State;
  - (b) authorising His Majesty’s Revenue and Customs (or anyone acting on their behalf) to disclose to the Secretary of State information held as mentioned in [section 18\(1\)](#) of the Commissioners for Revenue and Customs Act 2005;
  - (c) for the enforcement of any requirement imposed by virtue of the regulations.
- (2) For the purposes of [subsection \(1\)](#), a person “qualifies for change of use relief” if—
  - (a) but for [section 30A\(6\)](#) they would be a person to whom a notice may be given under [section 29\(1\)](#) of the Petroleum Act 1998 in relation to a carbon storage installation, or
  - (b) but for [section 30B\(4\)](#) they would be a person to whom a proposal may be made under [section 29\(1\)](#) of the Petroleum Act 1998 in relation to a submarine pipeline.

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(3) In this section—

“carbon storage installation” has the same meaning as in section 30 of the Energy Act 2008;

“submarine pipeline” has the same meaning as in Part 4 of the 1998 Act (see section 45 of that Act).”

(2) In section 105 of the Energy Act 2008 (Parliamentary control of subordinate legislation), in subsection (2) omit paragraph (aa).

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**Commencement Information**

**I7**    **S. 98** in force at 26.12.2023, see **s. 334(3)(b)**

**Changes to legislation:**

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