



# Energy Act 2023

## 2023 CHAPTER 52

### PART 2

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

### CHAPTER 5

#### CARBON STORAGE INFORMATION AND SAMPLES

##### *Enforcement of sanctionable requirements*

#### **115 Power of OGA to give sanction notices**

- (1) If the OGA considers that a person has failed to comply with a sanctionable requirement imposed on the person, it may give the person a sanction notice in respect of that failure.
- (2) If the OGA considers that there has been a failure to comply with a sanctionable requirement imposed jointly on two or more persons, it may give a sanction notice in respect of that failure—
  - (a) to one only of those persons (subject to [section 118\(2\)](#)),
  - (b) jointly to two or more of them, or
  - (c) jointly to all of them,but it may not give separate sanction notices to each of them in respect of the failure.
- (3) In this Chapter “sanction notice” means—
  - (a) an enforcement notice (see [section 116](#)),
  - (b) a financial penalty notice (see [section 117](#)),
  - (c) a revocation notice (see [section 118](#)), or
  - (d) an operator removal notice (see [section 119](#)).

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- (4) Sanction notices, other than enforcement notices, may be given in respect of a failure to comply with a sanctionable requirement even if, at the time the notice is given, the failure to comply has already been remedied.
- (5) Where the OGA gives a sanction notice to a person in respect of a particular failure to comply with a sanctionable requirement—
  - (a) it may, at the same time, give another type of sanction notice to the person in respect of that failure to comply;
  - (b) it may give subsequent sanction notices in respect of that failure only in accordance with [section 122](#) (subsequent sanction notices).
- (6) The OGA’s power to give sanction notices under this section is subject to [section 120](#) (duty of OGA to give sanction warning notices).
- (7) Where the OGA gives a sanction notice to a licensee in respect of a failure to comply with a sanctionable requirement—
  - (a) the matter is to be dealt with in accordance with this Chapter, and
  - (b) any requirement under the licensee’s carbon storage licence to deal with the matter in a certain way (including by arbitration) does not apply in respect of that failure to comply.

**Commencement Information**

**I1** [S. 115](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

**116 Enforcement notices**

- (1) An enforcement notice is a notice which—
  - (a) specifies the sanctionable requirement in question,
  - (b) gives details of the failure to comply with the requirement, and
  - (c) informs the person or persons to whom the notice is given that the person or persons must comply with—
    - (i) the sanctionable requirement, and
    - (ii) any directions included in the notice as mentioned in [subsection \(2\)](#), before the end of the period specified in the notice.
- (2) The notice may include directions as to the measures to be taken for the purposes of compliance with the sanctionable requirement.
- (3) Requirements imposed by directions included in an enforcement notice as mentioned in [subsection \(2\)](#) are sanctionable in accordance with this Chapter.

**Commencement Information**

**I2** [S. 116](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

**117 Financial penalty notices**

- (1) A financial penalty notice is a notice which—
  - (a) specifies the sanctionable requirement in question,

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- (b) gives details of the failure to comply with the requirement, and
- (c) informs the person or persons to whom the notice is given that the person or persons must—
  - (i) comply with the sanctionable requirement before the end of a period specified in the notice, where it is appropriate to require such compliance and the failure to comply with the requirement has not already been remedied at the time the notice is given, and
  - (ii) pay the OGA a financial penalty of the amount specified in the notice before the end of a period specified in the notice.
- (2) The period specified under [subsection \(1\)\(c\)\(ii\)](#) must not end earlier than the end of the period of 28 days beginning with the day on which the financial penalty notice is given.
- (3) The financial penalty payable under a financial penalty notice in respect of a failure to comply with a sanctionable requirement (whether payable by one person, or jointly by two or more persons) must not exceed £1 million.
- (4) If a financial penalty notice is given jointly to two or more persons, those persons are jointly and severally liable to pay the financial penalty under it.
- (5) A financial penalty payable under a financial penalty notice is to be recoverable as a civil debt if it is not paid before the end of the period specified under [subsection \(1\)\(c\)\(ii\)](#).
- (6) The OGA must—
  - (a) issue guidance as to the matters to which it will have regard when determining the amount of the financial penalty to be imposed by a financial penalty notice, and
  - (b) have regard to the guidance when determining the amount of the penalty in any particular case.
- (7) The OGA may from time to time review guidance issued under [subsection \(6\)\(a\)](#) and, if it considers appropriate, revise it.
- (8) Before issuing or revising guidance under this section, the OGA must consult such persons as it considers appropriate.
- (9) The OGA must—
  - (a) lay any guidance issued under this section, and any revision of it, before each House of Parliament;
  - (b) publish any guidance issued under this section, and any revision of it, in such manner as the OGA considers appropriate.
- (10) The Secretary of State may by regulations subject to the affirmative procedure amend [subsection \(3\)](#) to change the amount specified to an amount not exceeding £5 million.
- (11) Money received by the OGA under a financial penalty notice must be paid into the Consolidated Fund.

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**Commencement Information**

**I3** [S. 117](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

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## 118 Revocation notices

- (1) A revocation notice may be given only in respect of a failure to comply with a sanctionable requirement imposed on a licensee in that capacity.
- (2) Where two or more persons are the licensee in respect of a carbon storage licence, the revocation notice must be given jointly to all of those persons.
- (3) A revocation notice is a notice which—
  - (a) specifies the sanctionable requirement in question,
  - (b) gives details of the failure to comply with the requirement,
  - (c) informs the person or persons to whom the notice is given that—
    - (i) where no storage permit has been granted under the carbon storage licence, the licence is to be terminated, or
    - (ii) where a storage permit has been granted under the carbon storage licence, the permit is to be revoked,
 on the date specified in the notice (“the revocation date”).
- (4) The revocation date must not be earlier than the end of the period of 28 days beginning with the day on which the revocation notice is given.
- (5) A revocation notice may not be given in circumstances where the carbon storage licence to be terminated, or the storage permit to be revoked, in accordance with the notice is one which, on the date the notice is given, the OGA would not have the power to grant.
- (6) Where a carbon storage licence is terminated in accordance with a revocation notice—
  - (a) the rights granted to the licensee by the licence cease on the revocation date;
  - (b) the revocation does not affect any obligation or liability imposed on or incurred by the licensee under the terms and conditions of the licence;
  - (c) the terms and conditions of the licence apply as if the licence had been terminated in accordance with those terms and conditions, subject to [section 115\(7\)\(b\)](#).
- (7) Where a storage permit is revoked in accordance with a revocation notice—
  - (a) the authorisation granted by the storage permit ceases on the revocation date;
  - (b) the revocation does not affect any obligation or liability imposed or incurred under the terms and conditions of the storage permit;
  - (c) the terms and conditions of the carbon storage licence apply as if the storage permit had been revoked in accordance with those terms and conditions, subject to [section 115\(7\)\(b\)](#).

### Commencement Information

**I4** [S. 118](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

## 119 Operator removal notices

- (1) An operator removal notice may be given only in respect of a failure to comply with a sanctionable requirement imposed on an exploration operator under a carbon storage licence in that capacity.

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- (2) An operator removal notice is a notice which—
  - (a) specifies the sanctionable requirement,
  - (b) gives details of the failure to comply with the requirement, and
  - (c) informs the exploration operator to whom it is given that, with effect from a date specified in the notice (“the removal date”), the licensee under whose carbon storage licence the exploration operator operates (“the relevant licensee”) is to be required to remove the exploration operator (see [subsection \(4\)](#)).
- (3) The OGA must—
  - (a) give a copy of the operator removal notice to the relevant licensee, and
  - (b) require the relevant licensee to remove the exploration operator with effect from the removal date.
- (4) Where a licensee is required to remove an exploration operator from a specified date, the licensee must ensure that, with effect from that date, the exploration operator does not exercise any function of organising or supervising any of the activities referred to in paragraphs (a) and (b) of [section 107\(3\)](#).
- (5) The removal date must not be earlier than the end of the period of 28 days beginning with the day on which the operator removal notice is given.
- (6) An operator removal notice may not be given in circumstances where the carbon storage licence under which the exploration operator operates is one which, on the date the notice is given, the OGA would not have the power to grant.
- (7) A requirement imposed on a licensee under [subsection \(3\)\(b\)](#) is sanctionable in accordance with this Chapter.

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**Commencement Information**

**I5** [S. 119](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

## **120 Duty of OGA to give sanction warning notices**

- (1) This section applies where the OGA proposes to give a sanction notice in respect of a failure to comply with a sanctionable requirement.
- (2) The OGA must give a sanction warning notice in respect of the sanctionable requirement to—
  - (a) the person or persons to whom it proposes to give a sanction notice, and
  - (b) where it proposes to give an operator removal notice, the relevant licensee (see [section 119\(2\)\(c\)](#)).
- (3) A sanction warning notice, in respect of a sanctionable requirement, is a notice which—
  - (a) specifies the sanctionable requirement,
  - (b) informs the person or persons to whom it is given that the OGA proposes to give a sanction notice in respect of a failure to comply with the requirement,
  - (c) gives details of the failure to comply with the sanctionable requirement, and
  - (d) informs the person or persons to whom it is given that the person or persons may, within the period specified in the notice (“the representations period”),

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make representations to the OGA in relation to the matters dealt with in the notice.

- (4) The representations period must be such period as the OGA considers appropriate in the circumstances.
- (5) Subsections (6) and (7) apply where the OGA gives a sanction warning notice to a person or persons in respect of a sanctionable requirement.
- (6) The OGA must not give a sanction notice to the person or persons in respect of a failure to comply with the requirement until after the end of the representations period specified in the sanction warning notice.
- (7) Having regard to representations made during the representations period specified in the sanction warning notice, the OGA may decide—
  - (a) to give the person or persons a sanction notice in respect of the failure to comply with the requirement detailed in the sanction warning notice under [subsection \(3\)\(c\)](#),
  - (b) to give the person or persons a sanction notice in respect of a failure to comply with the requirement which differs from the failure detailed in the sanction warning notice under [subsection \(3\)\(c\)](#), or
  - (c) not to give the person or persons a sanction notice in respect of a failure to comply with the requirement.

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**Commencement Information**

**I6** [S. 120](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

**121 Publication of details of sanctions**

- (1) The OGA may publish details of any sanction notice given in accordance with this Chapter.
- (2) But the OGA may not publish anything that, in its opinion—
  - (a) is commercially sensitive,
  - (b) is not in the public interest to publish, or
  - (c) is otherwise not appropriate for publication.
- (3) If, after details of a sanction notice are published by the OGA, the sanction notice is—
  - (a) cancelled on appeal, or
  - (b) withdrawn under [section 123](#),
 the OGA must publish details of the cancellation or withdrawal.

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**Commencement Information**

**I7** [S. 121](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

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## 122 Subsequent sanction notices

- (1) This section applies where the OGA gives a sanction notice in respect of a particular failure to comply with a sanctionable requirement (whether the notice is given alone or at the same time as another type of sanction notice).
- (2) If the sanction notice given is a revocation notice or an operator removal notice, no further sanction notices may be given in respect of the failure to comply.
- (3) If the sanction notice given is a financial penalty notice which does not require compliance with the sanctionable requirement, no further sanction notices may be given in respect of the failure to comply.
- (4) Subsection (5) applies if the sanction notice given is—
  - (a) an enforcement notice, or
  - (b) a financial penalty notice which requires compliance with the sanctionable requirement.
- (5) No further sanction notices may be given in respect of the failure to comply before the end of the period specified under section 116(1)(c) or 117(1)(c)(i), as the case may be (period for compliance with sanctionable requirement).

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### Commencement Information

**18** S. 122 in force at 26.12.2023, see s. 334(3)(b)

## 123 Withdrawal of sanction notices

- (1) The OGA may, at any time after giving a sanction notice, withdraw the sanction notice.
- (2) If a sanction notice is withdrawn by the OGA—
  - (a) the notice ceases to have effect, and
  - (b) the OGA must notify the following persons of the withdrawal of the notice—
    - (i) the person or persons to whom the notice was given;
    - (ii) in the case of an operator removal notice, the licensee under whose carbon storage licence the exploration operator operates.

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### Commencement Information

**19** S. 123 in force at 26.12.2023, see s. 334(3)(b)

## 124 Sanctions: information powers

- (1) This section applies for the purposes of an investigation which—
  - (a) concerns whether a person has failed to comply with a sanctionable requirement, and
  - (b) is carried out by the OGA for the purpose of enabling it to decide whether to give the person a sanction notice, or on what terms a sanction notice should be given to the person.
- (2) The OGA may by notice in writing, for the purposes of that investigation, require the person to provide specified documents or other information.

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- (3) “Specified” means specified, or of a description specified, in a notice under this section.
- (4) A requirement under [subsection \(2\)](#) applies only to the extent—
- (a) that the documents requested are documents in the person’s possession or control, or
  - (b) that the information requested is information in the person’s possession or control.
- (5) A requirement imposed by a notice under [subsection \(2\)](#) is sanctionable in accordance with this Chapter.
- (6) The documents or information requested—
- (a) may include documents or information held in any form (including in electronic form);
  - (b) may include documents or information that may be regarded as commercially sensitive;
  - (c) may not include items that are subject to legal privilege.
- (7) The notice must specify—
- (a) to whom the information is to be provided;
  - (b) where it is to be provided;
  - (c) when it is to be provided;
  - (d) the form and manner in which it is to be provided.

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**Commencement Information**

**I10** [S. 124](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)



**Changes to legislation:**

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